

No. 1-10-2482

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 09 CR 14573
)	
JAMES SCHISLEY,)	The Honorable
)	Stanley J. Sacks,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Fitzgerald Smith and Sterba concurred in the judgment.

ORDER

¶ 1 *Held:* The palm print evidence taken from the victim's outside window, the point of entry of the residential burglary, was sufficient to prove defendant guilty beyond a reasonable doubt of the offense based on the State's latent print examiner's testimony and the circumstantial evidence. Defendant was not denied his constitutional right of confrontation because he had the opportunity to cross-examine the State's expert, and, on appeal, we cannot say the court abused its discretion in limiting the cross-examination. The trial court also did not abuse its discretion in admitting the expert's testimony indicating only that another expert examined the print evidence because this testimony was relevant to demonstrate procedure and was not unduly prejudicial. Defendant's sentence was not excessive, and he was properly subject to the three years of mandatory supervised release (MSR) associated with his Class X sentence, rather than the two years associated with his underlying Class 1 felony offense of residential burglary. This court affirmed the decision of the trial court.

¶ 2 Following a jury trial, defendant was found guilty of residential burglary and sentenced to 11 years in prison. Defendant's conviction rested on palm print evidence found at the crime scene shortly after the offense. On appeal, defendant raises five contentions. He first argues the State failed to prove him guilty beyond a reasonable doubt because the quality of the latent print was poor, the print examiner's testimony was unreliable, and there was insufficient evidence temporally linking the print to the crime. He next contends his constitutional right to confront the expert witness regarding the latent print evidence was violated when the court restricted inquiries on cross-examination. Defendant's third contention is that the court committed prejudicial error by allowing the State's print examiner to testify over objection on direct examination that he sent the latent print evidence to another qualified examiner. Defendant's fourth argument is that the court abused its discretion in sentencing him to 11 years' imprisonment because the sentence is excessive and does not reflect the non-violent nature of the offense. Finally, defendant avers that his term of mandatory supervised release (MSR) should be the two years associated with his Class 1 residential burglary offense, rather than the three years associated with the Class X term to which he was sentenced. We affirm.

¶ 3 **PROCEDURAL BACKGROUND**

¶ 4 Defendant was arrested and then charged with residential burglary after police found his palm print on the outside kitchen window of Eugene Khaan's residence at 8943 South Claremont Avenue in Chicago.

¶ 5 Trial evidence showed that on June 26, 2009, Khaan retired to sleep about 2 a.m. At that time, the doors to the house were locked, the kitchen windows closed, and the screens attached. He typically did not lock his windows. The next morning, he discovered the kitchen television, previously positioned under the window, missing. The television cables had been drawn towards

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the window, which was left open with the screen pulled up. The air conditioning unit located outside under the window bore a partial footprint and the outside window showed smudge marks not present the previous evening. Khaan testified that the interior and exterior windows were washed about every two weeks. He further testified that he didn't know defendant and hadn't given him permission to enter his home or to remove anything from it.

¶ 6 Chicago police officer Michael Flisk, a trained evidence technician, arrived that same morning, and dusted the area for prints. He determined that a burglar must have entered and exited through the rear kitchen window, which appeared to have been cleaned recently. He observed visible ridge impressions on the exterior window. Only one such mark was of suitable quality to lift for comparison purposes, and Officer Flisk opined that it had been left there within hours of his arrival at the scene. Khaan reported that the window had not been opened in the days prior to the offense.

¶ 7 About a month later, defendant was arrested after Chicago police detective Edmund Beazley noted that defendant's palm print, which was already on file, matched the latent impression collected at the crime scene. Defendant denied any knowledge of Khaan's residence or having been there.

¶ 8 Chicago police officer and latent print examiner Thurston Daniels III testified as an expert for the State. As a basis for his expert status, Officer Daniels testified that he had a Bachelor of Science in Mathematics and had been a Chicago police officer for 10 years, two of which had been spent in the latent print unit as an examiner. Officer Daniels had received specialized training in latent print comparison and evaluation, completed an apprenticeship with experienced latent print examiners at the police department, and was an uncertified member of the International Association for Identification (IAI). He had examined thousands of latent prints

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and identified individuals by comparing their latent prints to known prints "a few hundred" times, although he had only testified in court as a print expert once before. Defense counsel objected to the admission of Officer Daniels as an expert. The court overruled the objection, stating that the jurors were entitled to consider Officer Daniels' expertise as a fingerprint examiner.

¶ 9 Officer Daniels testified that latent prints are taken from the "palm side of your hands" and, when examining a print, the three relevant characteristics include an ending ridge, dividing ridge (which divides in two "similar to a fork in the road"), and a dot. He explained that fingerprints can be used as a means of identification because "no two areas of the skin have ever been found to be alike." Officer Daniels testified that he had followed the ACE-V method of fingerprint identification in this case, which consisted of a four-step process of analysis, comparison, evaluation, and verification. Officer Daniels examined the latent print lifted from Khaan's window under a five-time magnifier for three detail levels, which included pattern flow, ridge characteristics, and ridge shape and flow. He then entered the print into an electronic database, which presented 10 candidates with print impressions similar to the latent print recovered from the crime scene. Officer Daniels performed a side-by-side review under the five-time magnifier of the similar database print cards and the latent print at issue, ultimately concluding that the latent print impression found on Khaan's window matched defendant's palm print card. In support, Officer Daniels testified that he had identified more than 15 points of similarity between defendant's palm print card and the latent print taken from the crime scene. To demonstrate this point, the State presented enlarged versions of the prints to the jury as Exhibit 14, and Officer Daniels testified regarding nine labeled points of similarity that appeared on the respective images. He testified, for example, that point one was an upward ending ridge, point two was an upward-ending ridge of a short ridge and then explained generally how he

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compared the two prints. Over defense counsel's objection and in reference to the step-four verification phase of the ACE-V identification method, Officer Daniels testified that he gave the latent prints to "another qualified examiner who does his own independent examination."

¶ 10 On cross-examination, defense counsel questioned Officer Daniels about Exhibit 14. Defense counsel inquired whether, assuming points two, six, seven, and eight could be characterized as "dividing ridges," would that exclude defendant from having made the latent print impression. This question drew an objection each time it was raised and the court sustained the objections, generally finding the questions hypothetical. Officer Daniels conceded that it could be difficult at times to discern whether an ending ridge is part of a dividing ridge.

¶ 11 In response to defense counsel's queries, Officer Daniels further allowed that the error rate for fingerprint identification was zero, provided the proper methodology was used, and that he had not made any errors in fingerprint identification. Defense counsel asked whether it was possible that Officer Daniels "could have made errors in fingerprint identification" that were never caught and, specifically, whether he made an error in defendant's case, drawing an objection from the State which was sustained by the court on the basis that the question had been asked of and answered by Officer Daniels. Defense counsel later attempted to question Officer Daniels regarding the error rate for fingerprint identification, and the court again sustained the State's objections. Finally, defense counsel asked whether Officer Daniels could have matched the latent print to a "lookalike print." Officer Daniels said no, based on the quantity and quality of the prints, the number of ridge characteristics, the shapes of the ridges, and given his experience and training, that would be "impossible."

¶ 12 Defendant rested without presenting evidence. Following closing arguments, the jury found him guilty of residential burglary. Defendant filed a motion for a new trial, which was

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denied, and the cause proceeded to sentencing, where the parties presented mitigating and aggravating evidence. Given defendant's six prior felony convictions, the court found that he qualified for a Class X term, and sentenced him to 11 years' imprisonment followed by three years of MSR. Defendant appealed.

¶ 13

ANALYSIS

¶ 14

Issue 1: Sufficiency of the Evidence

¶ 15 Defendant first challenges the sufficiency of the evidence to sustain his residential burglary conviction. The standard of review when assessing the sufficiency of the evidence is, considering all the evidence in the light most favorable to the State, whether any rational trier of fact could have found beyond a reasonable doubt the essential elements of the crime. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009). The weight to be given the testimony, the credibility of the witnesses, the resolution of conflicting testimony, and the reasonable inferences to be drawn from the evidence are the responsibility of the trier of fact. *People v. Sims*, 374 Ill. App. 3d 231, 249 (2007). A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt. *Siguenza-Brito*, 235 Ill. 2d at 225.

¶ 16 In this case, to establish defendant's guilt for residential burglary, the State was required to prove that defendant knowingly and without authority entered Khaan's home, then committed theft. See 720 ILCS 5/19-3(a) (West 2008). As stated, defendant's conviction rested principally on the evidence of the latent print discovered on Khaan's outside window.

¶ 17 Fingerprint evidence is circumstantial evidence which attempts to connect the defendant to the offense alleged. See *People v. Rhodes*, 85 Ill. 2d 241, 249 (1981). It is well-established that a conviction may be based solely on fingerprint evidence, and to sustain such a conviction,

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fingerprints corresponding to those of the defendant must have been found in the immediate vicinity of the crime under such circumstances as to establish beyond a reasonable doubt that the fingerprints were impressed at the time the crime was committed. *Rhodes*, 85 Ill. 2d at 249; *People v. Woods*, 225 Ill. App. 3d 988, 994 (1992). Indeed, the presence of fresh prints is an indication that the prints were placed there at the time the crime was committed. *People v. King*, 135 Ill. App. 3d 152, 154 (1985).

¶ 18 Defendant contends the State failed to satisfy this temporal requirement because the testimony regarding the recency of the prints was "too flimsy." We disagree.

¶ 19 In this case, Khaan testified that when he retired in the early morning hours on the day of the offense, his house doors were locked, and his regularly-cleaned, smudge-free kitchen windows were closed. When Khaan awoke the next morning, a smudge in the form of defendant's recently impressed palm print, was on the outside of a kitchen window. That window was noted to be ajar, and the nearby television was missing. Although defendant's print was found at the point of entry for the residential burglary, Khaan testified he did not know defendant and had not permitted him to enter his home. Given this evidence, defendant's statement to police that he neither knew the residence, nor had been there, was disingenuous at best, and there is no evidence to place defendant at the scene of the crime at a prior time. See *People v. White*, 241 Ill. App. 3d 291, 298 (1993); *King*, 135 Ill. App. 3d at 154-55. The evidence submitted therefore was sufficient to satisfy the temporal requirement. See *People v. Ford*, 239 Ill. App. 3d 314, 318 (1992).

¶ 20 We thus reject defendant's contention that Khaan and evidence technician Flisk were not credible. Defendant argues Khaan's testimony that he checked his windows each night was unrealistic and Flisk's observations that the prints were "fairly recent" and impressed within

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several hours of the offense had no basis. But Flisk directly stated that these observations were based on his experience and training, which included review of both recent and aged fingerprints. He explained weather and body chemistry conditions make it possible to determine the age of a print. It is not the function of this court to substitute our judgment for that of the trier of fact on issues involving the weight of evidence or credibility of witnesses. *Siguenza-Brito*, 235 Ill. 2d at 224-25. The jury was free to believe these witnesses, and we see no reason to disturb its conclusion that, based on the circumstantial evidence, it was defendant who opened the kitchen window and stole the nearby television from Khaan's home. See *People v. Cole*, 256 Ill. App. 3d 1, 3 (1993). Such a determination was not so unreasonable, improbable, or unsatisfactory as to raise a reasonable doubt of defendant's guilt. See *White*, 241 Ill. App. 3d at 296, 298; *Woods*, 225 Ill. App. 3d at 995.

¶ 21 For these same reasons, we also reject defendant's patently conclusory suggestion that the testimony of fingerprint examiner Officer Daniels cannot be believed because, with two years of experience and only one trial under his belt, Officer Daniels was "inexperienced and poorly trained." Similarly, we cannot accept defendant's suggestion that Daniels' ACE-V matching methodology was "fraught with problems" and, finally, do not accept that his testimony must be rejected because he did not evaluate any elimination prints.

¶ 22 Initially, it merits mention that defendant's characterization of this claim as a challenge to the sufficiency of the evidence is questionable given that he really appears to be challenging the admissibility of the expert testimony and qualifications of Officer Daniels. Nonetheless, defendant has chosen to argue the sufficiency of the evidence, and that is how we must proceed in our review. We note only that, whereas here, a proper foundation has been laid for the basis of the expert's opinion, the expert's testimony is admissible, and it is for the jury to decide the

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weight to be assigned that testimony. *Ford v. Grizzle*, 398 Ill. App. 3d 639, 649 (2010); *People v. Sims*, 374 Ill. App. 3d 231, 251 (2007).

¶ 23 In this case, Officer Daniels testified not only as to his expert opinions, but also detailed the supporting bases of his opinions. Using the four-step process consisting of analysis, comparison, evaluation, and verification phases, as well as a five-time magnifier, Officer Daniels examined the latent print lifted from Khaan's window, entered it into an electronic database, then performed a side-by-side review of other like prints in the database. Based on more than 15 points of comparison, 9 of which he demonstrably identified to the jury, he concluded that defendant's database print matched that taken from Khaan's window. Given that defendant's print was the only one in the crime-scene area that appeared suitable for comparison after dusting, it comes as little surprise that elimination prints were not evaluated, since there were none to eliminate. We thus reject defendant's related argument that the absence of testing for elimination prints casts doubt on his conviction. A trier of fact 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. Moreover, Officer Daniels' testimony that no prints are alike made analyzing such additional prints irrelevant. Although defendant contends Officer Daniels was poorly trained and that the bases for his conclusions were problematic, the jury apparently did not believe that to be the case. Defendant did not offer contrary evidence, and we can reach no other conclusion but that his sufficiency of the evidence claim must fail. See *Ford*, 239 Ill. App. 3d at 319.

¶ 24 Issue 2: Confrontation Clause

¶ 25 Defendant next contends that the trial court violated his constitutional right to confront witnesses against him when it limited defense counsel's cross-examination of Officer Daniels

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regarding the latent print evidence. The State responds that the court acted within its discretion and no constitutional right was implicated. For the reasons elucidated at some length below, we agree with the State.

¶ 26 A criminal defendant's right to confrontation under the sixth amendment of the United States Constitution (U.S. Const., amend. VI; see also Ill. Const. 1970, art. I, sec. 8) includes the right to cross-examine witnesses against him. *People v. Kirchner*, 194 Ill. 2d 502, 536 (2000). In that sense, any permissible matter which affects the witness's credibility may be developed on cross-examination. *Id.*; see also *Delaware v. Fensterer*, 474 U.S. 15, 19 (1985). Although any limitation on the right to cross-examine requires scrutiny, a defendant's rights under the confrontation clause are not absolute. *People v. Averhart*, 311 Ill. App. 3d 492, 497 (1999). A court has discretion to impose reasonable limits on cross-examination to curtail possible harassment, prejudice, jury confusion, witness safety, or repetitive and irrelevant questioning, and we review a defendant's claim of a violation of the confrontation clause under the abuse-of-discretion standard. *People v. Tabb*, 374 Ill. App. 3d 680, 689 (2007). A judge may limit the scope of cross-examination and, unless the defendant can show his inquiry is not based on a remote or uncertain theory, a court's limitation on the scope of examination will be affirmed. *Id.*

¶ 27 Here, defense counsel asked Officer Daniels a number of different times on cross-examination whether defendant would be excluded as a suspect if the enumerated points on the latent print were in reality "dividing ridges." The trial court, however, sustained the State's objections, generally finding the questions hypothetical, presumably since they were not supported by any evidence in the case. The trial court also limited defense counsel's cross-examination of Officer Daniels with respect to the general error rate in fingerprint

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identification. Defendant now contends these limitations on cross-examination precluded him from testing the reliability of the State's only expert witness in violation of his constitutional rights, and thus effectively emasculated his right to cross-examination, itself. Defendant reasons that had he been permitted to pursue the hypothetical line of inquiry, Officer Daniels' "responses would likely have helped" defendant because "authority indicates that a single mischaracterized point of comparison would have thrown off the entire match." Defendant also suggests that relevant professional literature contradicts Officer Daniels' statement that when the correct methodology is used, the error rate for fingerprint identification is zero.

¶ 28 We initially question whether defendant can legitimately raise a constitutional claim in this context. Cases where the court has restricted the scope of cross-examination to the point of implicating defendant's constitutional rights, on a substantive level, typically involve precluding counsel from delving into the witness' bias or motive to testify falsely. See *e.g.*, *Averhart*, 311 Ill. App. 3d 499 (where trial court restricted defendant from cross-examining arresting police officer about a professional complaint previously filed against the officer for beating defendant, defendant was denied constitutional right to test the truth of officer's testimony). Here, defendant's purpose in cross-examining Officer Daniels clearly was not to expose false testimony or bias, but simply to test the accuracy or strength of Officer Daniels' professional conclusions. At the end of the proverbial day, defendant is merely attempting to ratchet up a common-law evidentiary claim and assign it an undeserved constitutional dimension.

¶ 29 Regardless, our review of the record shows defendant was allowed ample opportunities to confront, cross-examine, and test the truth of Officer Daniels' testimony that defendant's print matched that taken from the crime scene in a manner sufficient to satisfy the confrontation clause. The "fact" that defense counsel was precluded from asking general error-rate questions

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and some other hypothetical questions that were not based on the trial evidence does not necessarily implicate any deprivation of constitutional rights. That is, it doesn't follow that the court's restrictions here would deny defendant his right to cross-examine when the cross-examination methods used by defense counsel were but only a few in his arsenal to discredit the witness. Again, the essential purpose of the right to confrontation is to secure for the opponent the opportunity of cross-examination, which defendant had here. See *Fensterer*, 474 U.S. at 19-20; *People v. Blue*, 205 Ill. 2d 1, 12 (2001). As the United States Supreme Court in *Fensterer* now famously observed, generally speaking, the confrontation clause guarantees the *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defendant might wish. *Fensterer*, 474 U.S. at 20.

¶ 30 While defense counsel had the opportunity to cross-examine Officer Daniels' specific conclusions regarding the enumerated points, he failed to do so effectively. Although hypothetical questions are permissible cross-examination, the assumptions contained in the hypothetical question must be based on direct or circumstantial evidence, or reasonable inferences therefrom. *Leonardi v. Loyola University of Chicago*, 168 Ill. 2d 83, 96 (1995); *Lisowski v. MacNeal Memorial Hospital Ass'n*, 381 Ill. App. 3d 275, 287 (2008); *People v. Hermann*, 180 Ill. App. 3d 939, 946 (1988). It is within the sound discretion of the trial court to allow a hypothetical question, although the supporting evidence has not already been adduced, if the interrogating counsel gives assurance it will be produced and connected later. *Leonardi*, 168 Ill. 2d at 96; see also *Tabb*, 374 Ill. App. 3d at 689 (when a line of questioning is objected to, defendant must set forth offer of proof); *People v. Green*, 339 Ill. App. 3d 443, 455 (2003) (the evidence must be probative of whether the witness has something to gain or lose by his testimony).

¶ 31 It seems defendant's hypothetical questions were intended to lead the jury to believe (1) that the points referred to could be interpreted as dividing ridges and (2) if any one of those points were dividing ridges, defendant could not then be found guilty of the offense. However, Officer Daniels did not testify that the points defense counsel alluded to were dividing ridges; rather, he expressly stated they were *not* dividing ridges. While the print images were in "evidence," it is not the job of the jury to draw its own contrary conclusions in the matter because fingerprint examination is a science requiring expert testimony. See *People v. Speck*, 41 Ill. 2d 177, 198 (1968), *rev'd on other grounds*, *People v. Speck*, 52 Ill. 2d 284 (1972); *People v. White*, 241 Ill. App. 3d 291, 300 (1993). Notably, too, defense counsel did not present an offer of proof or any contrary evidence that the points he identified could be characterized as "dividing ridges," let alone the significance of characterizing them as such. See *Tabb*, 374 Ill. App. 3d at 689-90; *People v. Phillips*, 186 Ill. App. 3d 668, 678-79 (1989). Although defense counsel attempted to make his own observations during cross-examination that the enumerated points could be characterized as dividing ridges, this sort of "testimony" is not allowed, and the court rightly sustained the State's objections. See *White*, 241 Ill. App. 3d at 300. Defendant's cross-examination questions therefore were speculative and not based on the expert testimony, and the record is insufficient to establish prejudice. See *Hermann*, 180 Ill. App. 3d at 946; *Phillips*, 186 Ill. App. 3d 668, 679. In addition, while defendant now attempts to explain the significance of the intended testimony, we cannot consider evidence that was not presented to the trial court. See *People v. Heaton*, 266 Ill. App. 3d 469, 477-78 (1994). Based on the foregoing, we cannot say the court abused its discretion in limiting defense counsel's cross-examination.

¶ 32 We reach the same conclusion regarding defendant's claim that the trial court unfairly limited defense counsel's cross-examination when he asked Officer Daniels whether he could

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have committed an error in defendant's case. Officer Daniels already stated he did not commit an error in defendant's case. Defense counsel's cross-examination therefore was needlessly repetitive, and defense counsel's question regarding the overall error rate in fingerprint identification was framed so generally that its probative value was insignificant. See *People v. Smith*, 256 Ill. App. 3d 610, 617 (1994).

¶ 33 We note, finally, that defense counsel made the jury more than aware through cross-examination of his defense theory that Officer Daniels' expertise and abilities were questionable and that Officer Daniels possibly had matched the wrong person to the crime-scene print. See *People v. Maldonado*, 193 Ill. App. 3d 1062, 1069 (1989) (if the entire record shows that the jury had been made aware of adequate factors concerning relevant areas of impeachment of a witness, no constitutional question arises merely because defendant had been prohibited on cross-examination from pursuing other areas of inquiry).

¶ 34 Based on the foregoing, we cannot say the court abused its discretion in limiting defense counsel's cross-examination of Officer Daniels, and defendant's constitutional claim must fail.

¶ 35 Issue 3: Relevance of Evidence

¶ 36 Defendant next contends that Officer Daniels' testimony that he gave the latent prints to "another qualified examiner who does his own independent examination," was misleading and prejudicial and should not have been admitted over his objection. Defendant latches onto the fact that the jury, during deliberations, asked for the name and credentials of the second latent print examiner. Shortly after the court instructed the jury that it had all the evidence and simply to continue deliberating, the jury rendered a guilty verdict. Defendant argues Officer Daniels in essence "qualified" an expert who did not then testify and this, combined with defendant's other claimed errors, constituted reversible error.

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¶ 37 The State responds that Officer Daniels' testimony referencing the other examiner demonstrated the procedural steps taken by an expert during the fingerprint identification process and, as such, was both relevant and proper. We agree.

¶ 38 In this case, defendant lodged a general objection to Officer Daniels' testimony that he turned the latent print over to another qualified examiner. A general objection raises only the question of relevance. *People v. Buie*, 238 Ill. App. 3d 260, 275 (1992). Evidence is relevant if it has any tendency to make the existence of a fact of consequence to the case more or less probable than without the evidence, but its probative value cannot be substantially outweighed by its prejudicial effect. *Green*, 339 Ill. App. 3d at 453-54. A determination on the admissibility of evidence is within the discretion of the trial court, and its ruling will not be reversed unless there has been an abuse of discretion. *People v. Jura*, 352 Ill. App. 3d 1080, 1085 (2004).

¶ 39 Clearly Officer Daniels' testimony regarding to the procedural steps taken in the four-step method for analyzing fingerprints, the final step of which is submitting the fingerprints for independent examination by another print examiner, was relevant. See *Buie*, 238 Ill. App. 3d at 275-76. This evidence related to Officer Daniels' knowledge of the testing methodology used and his reliability as an expert witness. There was a logical connection between his testimony and the facts of the case. Officer Daniels did not testify regarding the examiner's conclusions or qualifications, and aside from defense counsel again emphasizing this procedural step on cross-examination, the parties made nary a mention of the reference. Moreover, when the jury asked the court for information about the second print examiner, the court responded that the jury had all the evidence, thus arguably curing any claimed error. Although defendant argues the reference to another print examiner "figured strongly in the jury's deliberations," such a claim is mere speculation. The jury also asked for the court transcripts and whether defendant stated

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where he was at the time of the crime. The jury clearly was seeking clarification of a number of issues. Based on the foregoing, we cannot say the reference to another examiner was more prejudicial than probative. The court did not abuse its discretion in admitting this testimony, and defendant's claim fails.

¶ 40 Issue 4: Sentencing

¶ 41 Defendant next challenges his sentence as excessive. Here, defendant was found to be subject to a Class X sentence based on his six prior offenses, including burglary and attempted burglary. See 730 ILCS 5/5-5-3(c)(8) (West 2008). As such, he was subject to a sentence between 6 and 30 years (730 ILCS 5/5-8-1(a)(3) (West 2008)). Defendant does not now contest his status as a Class X offender, but contends that his sentence of 11 years was excessive based on the non-violent nature of the offense. He complains that his sentence was "three times as severe as his previous sentence for burglary."

¶ 42 The standard of review for sentencing issues is whether the trial court abused its discretion in handing down a sentence. *People v. Lavelle*, 396 Ill. App. 3d 372, 385-86 (2009). Unless the sentence is grossly disproportionate to the nature of the offense committed, the sentence should be affirmed. *People v. Tijerina*, 381 Ill. App. 3d 1024, 1039 (2008).

¶ 43 Defendant's 11-year sentence is neither at great variance with the spirit and purpose of the law, nor manifestly disproportionate to the offense. See *People v. Calabrese*, 398 Ill. App. 3d 98, 127 (2010). It is, in fact, in keeping with the aim of recidivist statutes, which is to impose harsher sentences on offenders whose repeated convictions have shown their resistance to correction. See *People v. Pullen*, 192 Ill. 2d 36, 45 (2000). Accordingly, we decline to disturb the sentence imposed by the trial court.

¶ 44 Issue 5: MSR

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¶ 45 Defendant next contends that his MSR term should be the two years associated with his Class 1 felony conviction rather than the three years associated with his Class X sentencing term. See 720 ILCS 5/19-3(a) (West 2008); 730 ILCS 5/5-5-3(c)(8), 5-8-1(d) (West 2008).

¶ 46 This court has clearly and repeatedly held that the plain language of the MSR statute mandates that a defendant sentenced as a Class X offender receive the Class X MSR term of three years. *People v. Brisco*, 2012 IL App (1st) 101612, ¶¶ 59-62; *People v. Lampley*, 2011 IL App (1st) 090661-B, ¶¶ 46-49 (2011); *People v. Rutledge*, 409 Ill. App. 3d 22, 26 (2011); *People v. McKinney*, 399 Ill. App. 3d 77, 81-82 (2nd Dist. 2010); *People v. Lee*, 397 Ill. App. 3d 1067, 1073 (4th Dist. 2010); *People v. Watkins*, 387 Ill. App. 3d 764, 766-67 (3rd Dist. 2009); *People v. Smart*, 311 Ill. App. 3d 415, 417-18 (4th Dist. 2000); *People v. Anderson*, 272 Ill. App. 3d 537, 541-42 (1st Dist. 1995). We see no reason to depart from these soundly-reasoned decisions and therefore reject defendant's argument.

¶ 47 **CONCLUSION**

¶ 48 Based on the foregoing, we affirm the judgment of the circuit court.

Affirmed.