NOTICE
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2012 IL App (4th) 110156-U

Filed 5/11/12

NO. 4-11-0156

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
ANTOINE D. WRICKS,	)	No. 10CF1156
Defendant-Appellant.	)	
	)	Honorable
	)	Charles M. Leonhard,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Turner and Justice Cook concurred in the judgment.

ORDER

¶ 1 *Held*: Pursuant to *Anders v. California*, 386 U.S. 738 (1967), we grant the office of the State Appellate Defender's motion to withdraw and affirm the trial court's judgment where counsel concludes no meritorious issues could be raised on appeal as to whether defendant's sentence was excessive.

¶ 2 This case comes to us on the motion of the office of the State Appellate Defender (OSAD) to withdraw as counsel on appeal on the ground that no meritorious issues can be raised in this case. For the reasons that follow, we agree.

¶ 3 I. BACKGROUND

¶ 4 In November 2010, defendant entered a partially negotiated guilty plea to driving while his driver's license was suspended, a Class 4 felony (625 ILCS 5/6-303(d) (West 2010)), in that he drove a vehicle while his license was suspended for a prior violation of section 11-501.1 of the Illinois Vehicle Code (Vehicle Code) (625 ILCS 5/11-501.1 (West 2010)) and has

previously been convicted of driving while license suspended. In exchange for defendant's guilty plea, the State agreed to dismiss a count of obstructing justice. The State did not agree to make any particular sentencing recommendation.

¶ 5 At the plea hearing, the trial court admonished defendant in substantial compliance with Supreme Court Rule 402(a) (Ill. S. Ct. R. 402(a) (eff. July 1, 1997)). The parties stipulated in July 2010 a police officer stopped the vehicle defendant was driving for a vehicle violation. The police officer learned defendant's driver's license was suspended based on a 2009 statutory summary suspension. Defendant was previously convicted for driving on a suspended license in Champaign County case No. 07-TR-20642.

¶ 6 Defendant was 23 years old at the time of the sentencing hearing. The presentence investigation report (PSI) showed that defendant had (1) a Class 4 felony conviction for unlawful possession of a controlled substance with the intent to deliver in 2004 and (2) a Class 3 felony conviction for unlawful possession of a weapon by a felon in 2008. Defendant had nine prior traffic violations, including a 2007 conviction for driving on a suspended license and a 2010 conviction for driving under the influence of alcohol.

¶ 7 In November 2010, after the plea in this case, Champaign County case No. 10-CF-1156, defendant was found guilty in Champaign County case No. 09-CF-1300 of aggravated battery, a Class 2 felony.

¶ 8 At a January 2011 sentencing hearing, the trial court reviewed the PSI and weighed the aggravating and mitigating factors. The court stated it "believes that [defendant] is a threat to public safety." The court sentenced defendant to four years in prison, consecutive to his sentence in Champaign County case No. 09-CF-1300.

¶ 9 In January 2011, defendant filed a motion to reconsider his sentence and withdraw his plea. Later, the defendant withdrew his motion to withdraw his plea. The trial court denied the motion to reconsider.

¶ 10 In February 2011, defendant filed a notice of appeal and the trial court appointed OSAD to represent him. In January 2012, OSAD moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967). The record shows service of the motion on defendant. On its own motion, this court granted defendant leave to file additional points and authorities by February 27, 2012. Defendant did not do so. After examining the record and executing our duties consistent with *Anders*, we grant OSAD's motion and affirm the trial court's judgment.

¶ 11 II. ANALYSIS

¶ 12 OSAD contends the record shows no meritorious issues can be raised on appeal. Specifically, OSAD contends no colorable argument can be made the trial court erred in sentencing defendant to four years' imprisonment for his Class 4 felony conviction of driving on a suspended license. We agree.

¶ 13 A. The Standard of Review

¶ 14 A reviewing court may not alter a defendant's sentence absent an abuse of discretion. *People v. Alexander*, 239 Ill. 2d 205, 212, 940 N.E.2d 1062, 1066 (2010). A sentence is an abuse of discretion when the sentence is greatly at variance with the spirt and purpose of the law or manifestly disproportionate to the nature of the offence. *Alexander*, 239 Ill. 2d at 212, 940 N.E.2d at 1066 (quoting *People v. Stacey*, 193 Ill. 2d 203, 210, 737 N.E.2d 626, 629 (2000)).

¶ 15 B. The Available Sentence

¶ 16 Section 6-303 of the Vehicle Code provides, "Any person convicted of a second violation of [driving while his driver's license is suspended or revoked] shall be guilty of a Class 4 felony *** if the original revocation or suspension was *** a statutory summary suspension under Section 11-501.1 of this Code." 625 ILCS 5/6-303(d) (West 2010). The Unified Code of Corrections (Unified Code) provides for a maximum sentence of three years' imprisonment for a Class 4 felony. 730 ILCS 5/5-4.5-45(a) (West 2010). The Unified Code provides for an extended-term sentence for a Class 4 felony of not less than three years and not more than six years. 730 ILCS 5/5-4.5-45(a) (West 2010). A defendant is eligible for an extended-term sentence when he has previously been convicted of the same or greater class felony within 10 years. 730 ILCS 5/5-5-3.2(b)(1) (West 2010).

¶ 17 The trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference. *Alexander*, 239 Ill. 2d at 212, 940 N.E.2d at 1066. " 'A reviewing court gives great deference to the trial court's judgment regarding sentencing 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.' " *Alexander*, 239 Ill. 2d at 212-13, 940 N.E.2d at 1066 (quoting *People v. Fern*, 189 Ill. 2d 48, 53, 723 N.E.2d 207, 209 (1999)). A sentence within the statutory limits will not be deemed excessive unless it is greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense. *People v. Crenshaw*, 2011 IL App (4th) 090908, ¶ 22, 959 N.E.2d 703, 710.

¶ 18 C. Defendant's Sentence in This Case

¶ 19 Defendant was eligible for this Class 4 felony sentencing under section 6-303 of the Vehicle Code because his driver's license was suspended in 2009 by a statutory summary suspension pursuant to section 11-501.1 of the Vehicle Code. Defendant was eligible for an extended-term sentence because he was previously convicted of a felony of the same or greater class within 10 years of this offense, namely (1) a Class 4 felony in 2004 and (2) a Class 3 felony in 2008.

¶ 20 At sentencing, the trial court stated it believed defendant to be a "threat to public safety." The defendant, at his young age, has acquired an extensive criminal history and has numerous traffic violations. Based on defendant's history of criminality, persistent vehicle violations, and inability to conform his conduct to the requirements of the law, the trial court did not abuse its discretion in sentencing defendant to a statutorily authorized sentence of four years' imprisonment.

¶ 21 III. CONCLUSION

¶ 22 For the reasons stated herein, we grant OSAD's motion to withdraw and affirm the trial court's judgment.

¶ 23 Affirmed.