

NOTICE
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2013 IL App (4th) 120473-U

NO. 4-12-0473

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
August 29, 2013
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Vermilion County
RAYMOND MEEKER,)	No. 09CF144
Defendant-Appellant.)	
)	Honorable
)	Nancy S. Fahey,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court. Justices Turner and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court rejected defendant's excessive sentence claim.

¶ 2 In April 2009, the State charged defendant, Raymond Meeker, with criminal sexual assault (720 ILCS 5/12-13(a)(3) (West 2008)). Following an April 2012 trial, a jury convicted defendant of that offense. The trial court later sentenced him to 14 years in prison.

¶ 3 Defendant appeals, arguing only that he received an excessive sentence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 The charge against defendant alleged that he committed criminal sexual assault against J.M.—who was under 18 years of age when the act was committed—and defendant was a family member. 720 ILCS 5/12-13(a)(3) (West 2008). That charge was a Class 1 felony (720

ILCS 5/12-13(b)(1) (West 2008)), which meant that it had a sentencing range of not less than 4 and not more than 15 years in prison. 730 ILCS 5/5-8-1(a)(4) (West 2008). Section 5-5-3(c)(2)(H) of the Unified Code of Corrections prohibited a sentence of probation. 730 ILCS 5/5-5-3(c)(2)(H) (West 2008).

¶ 6 A. Defendant's Jury Trial

¶ 7 At defendant's April 2012 jury trial, J.M. testified that she was then 18 years old and defendant's daughter. In September 2008, she was 15 and living with her parents in Westville. One night that month, she was asleep in her home when she felt a hand come up her leg and her underwear was taken off. She realized it was her father, who then had sexual intercourse with her. He did not say anything to her, and she did not speak because she "couldn't find [her] voice." The sexual intercourse lasted probably three minutes, then defendant got up and left. J.M. did not tell her mother or anybody else what happened because she did not think her mother would believe her.

¶ 8 Two nights later, defendant repeated his conduct with J.M. Again, nothing was said by either defendant or J.M.

¶ 9 The third incident occurred three to four days after the second. This time, when defendant started having intercourse with her, she "actually found a little bit of [her] voice, and [she] said, 'Stop.' " But defendant did not stop. After a few minutes, defendant got up and left, and J.M. curled up in a ball and started to cry.

¶ 10 Defendant did not have intercourse with J.M. again. The only time he mentioned it was when he told J.M., "Don't tell your mom, because you know what she'll do."

¶ 11 Approximately five months later, J.M. realized she was pregnant when she felt a

mentioned how she no longer enjoyed her activities and hobbies. She concluded by stating that the case "still haunts" her and "it will haunt [her] till [she] die[s]."

¶ 17 Defense counsel urged the imposition of a sentence in "the minimum range" based upon defendant's lack of a criminal history.

¶ 18 Before imposing sentence, the trial court stated that it had reviewed the statutory factors in mitigation and aggravation that might apply to the case and determined that the only mitigating factor was that defendant had no prior history of delinquency or criminal activity. The court then stated its agreement with the prosecutor's assessment of defendant's conduct, explaining as follows:

"Your actions were reprehensible. They were disgusting, and it doesn't matter to the [c]ourt how many incidents were involved. They had a life-altering effect on this victim and something that she will never be able to get over or probably deal with. And this [c]ourt is not going to tolerate that type of conduct.

I appreciate the fact that up to this point you've been a law-abiding citizen, but I don't think that offsets how, once again, reprehensible and disgusting this conduct was."

¶ 19 The trial court then sentenced defendant to 14 years in prison. Defendant later filed a motion to reconsider sentence, which the trial court denied.

¶ 20 This appeal followed.

¶ 21 **II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY SENTENCING DEFENDANT TO 14 YEARS IN PRISON**

¶ 22 Defendant argues that the trial court imposed an excessive sentence of 14 years, given that (1) the sentencing range for defendant's conviction was from 4 to 15 years in prison and (2) defendant was 50 years old and had never been convicted of a misdemeanor or felony or adjudicated a delinquent minor. Although defendant acknowledges that the trial court at sentencing spoke of his lack of any criminal record, he contends that the court erred in failing to accord sufficient weight to that factor. Defendant further contends, in what appears to be an argument about the absence of aggravating factors, that he "did not use a weapon or physical violence to facilitate the commission of criminal sexual assault," thus "the type of acts that might further aggravate the crime were not present." Citing several cases dating primarily from the 1970's, defendant contends that this court should exercise its power to reduce the sentence imposed by the trial court. We are not impressed.

¶ 23 In *People v. Stacey*, 193 Ill. 2d 203, 209, 737 N.E.2d 626, 629 (2000), the supreme court stated that it is well settled that the trial court has broad discretionary powers in imposing a sentence and noted that the trial court's sentencing decision is entitled to great deference. Further, the supreme court cautioned that a reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed sentencing factors differently. *Id.*

¶ 24 Although we view the supreme court's cautionary admonition as well taken, it does not apply to the present case because this court has no disagreement with the trial court regarding how it weighed the sentencing factors. We agree with the court's remarks at sentencing, reflecting the seriousness of the offense and the need for deterrence, as being significant factors in the court's determination of an appropriate sentence. The court correctly

described the defendant's conduct as reprehensible and disgusting, life-altering to the victim, and something that ought not be tolerated by the courts.

¶ 25 Twenty years ago, this court noted that the trial court was in the best position to make a reasoned decision as to the appropriate punishment in each case, and we stated that a court of review will not reverse the trial court unless it has abused its discretion when making that decision. *People v. Nussbaum*, 251 Ill. App. 3d 779, 780-81, 623 N.E.2d 755, 757 (1993). On this record, we find no abuse of the trial court's discretion, and we specifically reject defendant's claim that the trial court did not properly consider his rehabilitative potential. We reiterate what we stated in *Nussbaum*, as follows: "In evaluating [the statutory sentencing factors], the court can consider [a] defendant's remorse, or lack thereof, and the court is not required to give defendant's rehabilitative potential more weight than the seriousness of the offense. However, the court need not recite and assign a value to each factor it has considered." *Id.*

¶ 26 III. CONCLUSION

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

¶ 28 Affirmed.