



a romantic relationship from May 2010 until March 2011. Pope testified that the defendant had "pulled a gun" on her more than once, would wave it around in front of her, and would tell her not to cheat on him. In one incident, the defendant got Pope onto the ground and held a baseball bat to her neck until his children entered the room and urged him to stop. When Pope stood up, the defendant swung the baseball bat and hit Pope's ankle. Pope further testified that she wanted to leave the defendant but feared for her safety as well as for the safety of the defendant's three children.

¶ 5 On March 13, 2011, the defendant convinced Pope to come over to his home to do her laundry. While there, Pope informed the defendant that she no longer wanted to be in a relationship with him. The defendant became upset and the two of them began to argue. The defendant took Pope's cell phone and broke it in half. Pope was facing the defendant and walking backwards. As she was doing so, she tripped over some weights and fell on her back. At that point, the defendant got on top of Pope and started to choke her such that she could not breathe. The defendant finally stopped choking her, grabbed his gun, and told Pope to remove her clothing and go lie down on the defendant's bed. The defendant sat at the end of the bed with the gun and forced Pope to stay on the bed until she eventually fell asleep. Pope awoke the next morning next to the defendant, who was still sleeping. The defendant's phone was unplugged from the wall, but Pope managed to plug the phone in and call her cousin, who in turn called the police. Pope went to the hospital and was treated for injuries to her neck and arm and the defendant was arrested.

¶ 6 The jury found the defendant guilty of aggravated domestic battery and the cause moved on to sentencing. A presentence investigation report (PSI) revealed that the defendant had multiple convictions and sentences, including two Class 2 felonies from the mid-1980s. The PSI also revealed records from the Social Security Administration showing that the defendant was diagnosed with a primary medical impairment of mental retardation

with a secondary impairment of schizophrenic, paranoid, and other psychotic disorders.

¶ 7 The PSI also reported interviews with the defendant's three children. All three children stated that they either had been physically abused by the defendant or had viewed the defendant physically abusing either another sibling or Pope. The children mentioned that the defendant's abusive behavior began after their mother went to prison and got progressively worse as time went on.

¶ 8 The State submitted a certified copy of a Class 2 felony conviction from 1984, a "simple robbery" conviction in Minnesota from 1987, and the "simple robbery" statute from Minnesota that showed that the "simple robbery" conviction was the equivalent of a Class 2 felony in Illinois. The State asked that the defendant be sentenced to 25 years' imprisonment and defense counsel requested 6 years' imprisonment.

¶ 9 The court found, in aggravation, that the defendant's conduct threatened serious harm, that the defendant had an extensive criminal history, and that the sentence was necessary to deter others from committing the same crime. It also noted that the defendant was a danger to his children and the community. The court found that the defendant did not have any rehabilitative potential. Further, the court noted that it had considered the defendant's mental retardation but did not find that it served as an appropriate mitigating factor, stating that it had "nothing to do with this case." The court then sentenced the defendant to 30 years' imprisonment. The defendant filed a motion to reconsider his sentence. The court denied the motion at a hearing. This appeal followed.

¶ 10 ANALYSIS

¶ 11 On appeal, the defendant argues that the circuit court abused its discretion during sentencing when it failed to consider that Pope did not suffer great bodily harm or permanent disability or disfigurement, that his felonies that gave rise to his Class X offender status were from the mid-1980s, and his mental retardation diagnosis.

¶ 12 The circuit court has broad discretion in sentencing a defendant, and its decision will not be disturbed absent an abuse of that discretion. *People v. La Pointe*, 88 Ill. 2d 482, 492 (1981). A sentencing court has a far better opportunity to observe the defendant and consider the relevant factors, whereas a reviewing court must rely on a "cold record." *People v. Fern*, 189 Ill. 2d 48, 53 (1999). The existence of mitigating factors does not require the court to reduce a sentence from the maximum sentence allowed. *People v. Phippen*, 324 Ill. App. 3d 649, 652 (2001). The most important factor for a sentencing court to consider is the seriousness of the offense. *People v. Flores*, 404 Ill. App. 3d 155, 159 (2010). Other factors a sentencing court may consider are protection of the public, deterrence, punishment, and the defendant's age, rehabilitative potential, credibility, and demeanor. *People v. Toney*, 2011 IL App (1st) 090933, ¶ 64.

¶ 13 Here, the defendant had two prior Class 2 felonies that necessitated his being sentenced as a Class X felon according to section 5-4.5-95(b) of the Unified Code of Corrections (730 ILCS 5/5-4.5-95(b) (West 2010)). The minimum sentence the defendant could have been sentenced to was 6 years' imprisonment and the maximum was 30 years' imprisonment. 730 ILCS 5/5-4.5-25(a) (West 2010).

¶ 14 The defendant argues that the circuit court did not consider his mental retardation when fashioning his sentence. However, the record indicates the contrary. The court specifically mentioned the defendant's mental retardation and noted that it was not relevant to the matter at hand, thereby showing that the court considered the defendant's mental retardation but did not find it relevant to mitigate the sentence.

¶ 15 The court clearly indicated the factors it considered when sentencing the defendant. That it found no factors in mitigation was entirely within its discretion. The defendant had a lengthy criminal history. Testimony from the victim indicated that this was not the only time the defendant had physically harmed her and that, in the past, the defendant's children

were present. Though the victim was not physically harmed or disfigured permanently, she testified that she suffered from emotional and psychological issues as a result of the defendant's physical abuse of her. Not only was Pope abused, but the PSI noted that the defendant's children either were also abused or had witnessed abuse. The circuit court was in the best position to evaluate the facts of this case, and it did not abuse its discretion when it sentenced the defendant to 30 years' imprisonment.

¶ 16 CONCLUSION

¶ 17 For the foregoing reasons, the judgment of the circuit court of Marion County is affirmed.

¶ 18 Affirmed.