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2014 IL App (3d) 130066-U

Order filed December 24,2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 14th Judicial Circuit, Henry County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-13-0066
JUSTIN BEALER,)	Circuit No. 10-CF-382
Defendant-Appellant.)	

THE PEOPLE OF THE STATE OF ILLINOIS,)	
Plaintiff-Appellee,)	Appeal No. 3-13-0067
v.)	Circuit No. 10-CF-393
JUSTIN BEALER,)	Honorable
Defendant-Appellant.)	Charles H. Stengel, Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Justices Holdridge and McDade concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in: (1) suppressing part of a statement made by defendant to the police; (2) admitting other sexual offense evidence under section 115-7.3 of the Code of Criminal Procedure of 1963 (Ill. R. Evid. 404(b) (eff. Jan. 1, 2011)); and (3) imposing multiple consecutive natural life sentences on defendant's predatory criminal sexual assault of a child convictions.

¶ 2 In case No. 10-CF-382, defendant, Justin Bealer, was found guilty of nine counts of predatory criminal sexual assault of a child (PCSAC) (720 ILCS 5/12-14.1(a)(1) (West 2010)) and eight counts of aggravated criminal sexual abuse (ACSA) (720 ILCS 5/12-16(c)(1)(i) (West 2010)). In case No. 10-CF-393, defendant was found guilty of five counts of PCSAC and two counts of ACSA. The two cases proceeded to a joint sentencing hearing. In case No. 10-CF-382, the trial court sentenced defendant to natural life imprisonment on each of defendant's nine PCSAC convictions. The court ordered that the natural life sentences be served consecutively. The court sentenced defendant to concurrent terms of five years' imprisonment on each of the eight ACSA convictions. The ACSA sentences were ordered to run consecutive to the PCSAC sentences. In case No. 10-CF-393, the trial court sentenced defendant to natural life imprisonment on each of defendant's five PCSAC convictions. The court ordered the natural life sentences to be served consecutively to each other and the natural life sentences imposed in case No. 10-CF-382. The court sentenced defendant to concurrent terms of five years' imprisonment on each of the two ACSA convictions. These sentences were ordered to run consecutive to the natural life sentences in this case and concurrent to the ACSA sentences imposed in case No. 10-CF-382.

¶ 3 On appeal, defendant argues: (1) the trial court erred in failing to suppress his entire November 4, 2010, statement to the police; (2) the trial court abused its discretion in admitting evidence of other sexual offenses pursuant to section 115-7.3 of the Code of Criminal Procedure

of 1963 (Code) (725 ILCS 5/115-7.3 (West 2010)); and (3) defendant qualified for only one natural life sentence. We affirm.

¶ 4

I. FACTS

¶ 5

A. Case No. 10-CF-382

¶ 6

Defendant was charged by amended information with nine counts of PCSAC (720 ILCS 5/12-14.1(a)(1) (West 2010)) and eight counts of ACSA (720 ILCS 5/12-16(c)(1)(i) (West 2010)). The amended information alleged that defendant had committed the charged offenses against the minor, J.R.

¶ 7

1. Self-Incriminating Statement

¶ 8

Before trial, defendant filed a motion to suppress a self-incriminating statement. On April 2, 2012, the case proceeded to a hearing on defendant's motion. Illinois State Police Special Agent Anthony Romeo testified that on November 4, 2010, Romeo and Special Agent Corey Peck spoke with defendant at his home in Colona. At the time, Romeo and Peck were dressed in plain clothes, and their firearms were concealed. Romeo and Peck met defendant in the driveway, identified themselves, and asked to speak with defendant about J.R. Defendant led Romeo and Peck into the house, where the officers interviewed defendant in the kitchen.

¶ 9

Romeo told defendant that J.R. had spoken to "somebody" and the officers knew what had happened. Romeo advised defendant that he did not have to speak with the officers and could stop talking at any time. Defendant agreed to speak with the officers without a lawyer present and consented to an audio recording of the interview. The interview lasted approximately one hour, after which Romeo and Peck conducted a consented search of the residence. For the officers' safety, before the search, defendant was placed in handcuffs and read

the *Miranda* warning. Defendant was not previously read the *Miranda* warning because he was not in custody.

¶ 10 During Romeo's testimony, the State played the audio recording of the interview and introduced a transcript of the recording into evidence. In the transcript, defendant stated that he knew J.R. since she was born and was friends with her family for over 10 years. Romeo explained that he knew what happened and was trying to help J.R. Romeo asked defendant to explain why he developed a relationship with J.R. and the extent of the relationship. Defendant explained the relationship became sexual by accident. Defendant and J.R. were "relaxing" when defendant's penis "fell out." J.R. saw defendant's penis and seemed curious. Defendant encouraged J.R.'s curiosity, in part, to "satisfy" himself. In another incident, defendant and J.R. were in the basement. The heat was on, and J.R. was very warm. J.R. took off her clothes and jumped on defendant, and defendant became aroused. On another occasion, J.R. placed her foot on defendant's penis while she was asleep, and defendant became aroused. Defendant also acknowledged that he had condoned J.R.'s interest in masturbation. Thereafter, the following exchange occurred:

"[Defendant]: You know, okay...uh, how many guys'll straight face tell ya? At this point nothing was like going on with it.

[Romeo]: I'm with ya. I'm with ya.

[Defendant]: You know?

[Romeo]: I'm with ya.

[Defendant]: Well you'll under...you'll understand if I don't completely believe you guys, but I, I, I have nothing to lose at this point. You're either gonna put me in cuffs and arrest me right now...

[Romeo]: That's true.

[Defendant]: ...or, you know, I can talk without a lawyer here."

After the exchange, defendant explained several additional sexual encounters with J.R. At the end of the interview, defendant signed a consent to search form.

¶ 11 Defendant testified that on November 4, 2010, he spoke with Romeo and Peck and led the officers into the house. Defendant assumed that the officers were carrying a concealed firearm, but they never displayed their weapons. From the beginning of the interview, defendant felt that he was a suspect in the investigation and eventually told the officers "[y]ou'll understand if I don't completely believe you guys." At this point, defendant no longer felt free to leave and had not received *Miranda* warnings. Defendant was taken into custody at the end of the interview.

¶ 12 Throughout the interview, defendant felt like he could not refuse to speak to the officers because he had not slept in 32 hours and this sleep deprivation left him without the mental acuity to refuse. At a certain point, defendant felt he had to continue talking because he thought that the officers would arrest him even if he stopped talking.

¶ 13 The trial court found that defendant was not given *Miranda* warnings before or during the interview. The court concluded that when Romeo indicated that defendant was going to be placed under arrest, no reasonable innocent person in defendant's position would believe he was free to leave. The court suppressed the interview from this point forward.

¶ 14 2. Evidence of Other Sex Crimes

¶ 15 On March 15, 2012, the State filed a motion to admit evidence of defendant's other sex crimes. 725 ILCS 5/115-7.3 (West 2010). At the hearing, the State argued for the admission of evidence of other sexual misconduct occurring around October 23, 2010, at a resort and water

park in Iowa. The State presented evidence that J.R. had discussed sexual abuse occurring at a water park resort in Iowa during a video-recorded interview at the Rock Island County Children's Advocacy Center. J.R.'s mother confirmed that defendant had taken J.R. on an overnight trip to a water park in Iowa. The State introduced two exhibits that contained videos taken from defendant's computer. The first exhibit contained 23 separate videos of defendant engaged in sexual misconduct with J.R. in his bedroom. The second exhibit contained seven video recordings of similar sexual misconduct that occurred while defendant and J.R. were at a water park resort.

¶ 16 After viewing the videos, the trial court weighed the probative value of the water park videos against the prejudice caused to defendant. The court noted: (1) that there were 7 videos of uncharged conduct and 23 videos of charged conduct; (2) the offenses depicted were similar to the charged offenses; (3) the other-crimes evidence would not cause juror confusion; and (4) the probative value of the evidence outweighed any undue prejudice to defendant. The court granted the State's motion.

¶ 17 3. Trial

¶ 18 On August 7, 2012, the case proceeded to a jury trial. J.R. testified that she was in second grade and lived with her parents in East Moline. J.R. was unsure of how long she had known defendant, whom she called "Beef." J.R. stated that there were places on the body that were not permissible to touch. J.R. identified the vagina as the "personal space" and the penis as the "I don't know." Defendant had touched J.R.'s "personal space" multiple times, and defendant had made J.R. touch his "I don't know" more than once.

¶ 19 J.R. had gone to defendant's house multiple times and once stayed overnight. J.R. stated that defendant took her to a water park, and the court interrupted the testimony to instruct the jury that:

"defendant has been involved in an offense other than what has been charged in the information. This evidence is being received on the issue of the defendant's propensity to commit the offenses charged in this case. It is considered by you only for that purpose. It is for you to determine whether the defendant was involved in that offense and, if so, what weight should be given to this evidence on the issue."

After the instruction, J.R. said that at the hotel, she and defendant played with a camera. J.R. remembered that she had seen the camera at defendant's house. While at the resort and water park, defendant did not touch J.R.'s vagina, and she did not touch defendant's penis.

¶ 20 J.R.'s mother, Rachel R., testified that defendant was a family friend, and she had known him for seven or eight years. Defendant occasionally cared for J.R. and took her on day trips. In September or October 2010, defendant took J.R. on an overnight trip to an aquarium and water park in Iowa.

¶ 21 In November 2010, during a trip to Wal-Mart, J.R. pointed to a skirt in the Halloween section and said "[u]ncle Beef got that for me, but I wasn't supposed to tell you that." J.R. refused to explain the statement until Rachel assured her that she would not get into trouble. J.R. then stated "[w]e do bottom stuff." Rachel explained that J.R. referred to her genital area as her "bottom." Rachel reported J.R.'s statement to a nurse who contacted the Department of Children and Family Services (DCFS).

¶ 22 DCFS child protection investigator Elizabeth Schmidt testified that on November 4, 2010, she conducted a videorecorded interview with J.R. During the interview, J.R. identified

the female buttocks and vagina as the "bottom." J.R. also identified the male buttocks and penis as the "bottom."

¶ 23 Prior to the introduction of a video recording and transcript of Schmidt's interview with J.R., the court instructed the jury that it would hear on the recording that defendant was involved in an uncharged offense and this evidence was received on the issue of defendant's propensity. The court instructed the jury that it was to determine whether defendant was involved in that offense and, if so, what weight should be given to the evidence on the issue of defendant's propensity to commit the charged offenses.

¶ 24 In the interview, J.R. described defendant as a friend who took her to a hotel with water slides and an aquarium. J.R. indicated that defendant had kissed her vagina many times both at defendant's house and at a hotel. J.R. also indicated that she had kissed and licked defendant's penis several times. J.R. said defendant "want[ed] to do this every single day." J.R. described an incident where she and defendant licked "strawberry stuff" off of the other's genitals. Defendant told J.R. not to speak about the "bottom stuff."

¶ 25 Romeo testified, similar to his testimony during the suppression hearing, that he and Peck had interviewed defendant on November 4, 2010. The audio recording and transcript of the interview were admitted into evidence, and the recording was played for the jury. On the recording, defendant acknowledged that he had a sexual relationship with J.R. and expressed remorse for what he had done. The sexual relationship began when his penis accidentally fell out of his shorts while he was caring for J.R. On a later occasion, J.R.'s foot touched defendant's penis, causing defendant to experience "instant arousal." The recording ended after defendant stated "I have nothing to lose at this point. You're either gonna put me in cuffs and arrest me

right now..." After the interview, Romeo searched the basement and seized a laptop computer and digital camera that belonged to defendant.

¶ 26 The State's final witness, William Hurt, testified that he was a forensic computer examiner. Hurt obtained digital files from a computer and digital camera that were seized from defendant's living quarters and placed the files on two DVDs. Hurt identified the State's exhibits Nos. 26 and 27 as DVDs containing the video recordings that he had found on the laptop. The videos were admitted into evidence, and, before they were played for the jury, the court issued a limiting instruction on the other offenses evidence depicted on the videos. Exhibit No. 26 contained 23 short videos depicting sexual activities involving J.R. and an adult male. The activities appeared to occur in defendant's bedroom. Exhibit No. 27 contained seven videos of sexual activity involving J.R. at a different setting.

¶ 27 During jury instructions, the court instructed the jury that:

"Evidence has been received that the defendant has been involved in an offense other than that charged in the information.

This evidence has been received on the issue of the defendant's propensity to commit the offense and may be considered by you only for that limited purpose.

It is for you to determine whether the defendant was involved in that offense and, if so, what weight should be given to this evidence on the issue of propensity to commit the offenses charged in this case[.]"

¶ 28 After deliberations, the jury found defendant guilty of nine counts of PCSAC and eight counts of ACSA.

¶ 29 On August 30, 2012, defendant made a motion to continue the sentencing hearing until case No. 10-CF-393 was concluded. The court granted defense counsel's motion and reset the case for sentencing on November 16, 2012.

¶ 30 On September 10, 2012, defendant filed a motion for a new trial. Defendant argued, in part, that the court erred in (1) denying his motion to suppress and allowing into evidence portions of defendant's statement that were obtained in violation of *Miranda*, and (2) admitting other-crimes evidence. After a hearing, the trial court denied the motion.

¶ 31 B. Case No. 10-CF-393

¶ 32 Defendant was charged by amended information with 13 counts of PCSAC and 2 counts of ACSA. The information alleged that defendant had engaged in various acts of sexual misconduct with the minor victim A.F. Defendant waived his right to a jury trial, and the case proceeded to a bench trial.

¶ 33 At trial, A.F. testified that she was 17 years old. Defendant was a family friend who provided care for A.F. from the time that she was 10 years old. When A.F. was in fifth grade, she went to defendant's house, where she and another girl alternated playing video games and spending time alone with defendant. While the second girl played video games, defendant licked A.F.'s vagina and asked A.F. to lick his penis.

¶ 34 During a two week break from school, defendant cared for A.F. during the day. During this period, defendant engaged in sexual misconduct with A.F. and another girl in the basement of his home. A.F. estimated that she had licked defendant's penis more than 30 times, and defendant had licked her vagina more than 50 times. Defendant also paid A.F. for permission to touch her breasts, and A.F. explained that "[t]he farther we'd go, the more money [defendant gave] us." Defendant also touched A.F.'s vagina with a vibrator.

¶ 35 A.F. identified photographs of herself and a second girl in defendant's basement bedroom. Some of the photographs showed A.F. licking defendant's penis. Forensic computer analysis established that the photographs were found on defendant's computer.

¶ 36 When she was in fifth grade, defendant gave A.F. music lessons. As a punishment for the mistakes A.F. made during the lessons, A.F. was required to draw a piece of paper from a black box and perform the activity stated on the paper. The punishments included music-related tasks, as well as sexual activities such as "Lick & kiss Beefy Jr. after lesson." A.F. testified that she had drawn a slip that directed her to lick defendant's penis.

¶ 37 Consistent with their testimony in case No. 10-CF-382, Peck and Romeo stated that they interviewed defendant on November 4, 2010. Defendant admitted to Romeo that he had a sexual relationship with A.F. and a second victim. After a search of defendant's home, defendant's grandmother, Lucille Bealer, arrived at the house. Romeo told her that defendant had confessed to sexually assaulting A.F. and a second girl. Lucille asked defendant if Romeo's allegations were true, and defendant responded "[y]es."

¶ 38 While testifying for the defense, Lucille denied asking defendant if the allegations were true and said that defendant never provided day care for A.F.

¶ 39 The court found defendant guilty of five counts of PCSAC and two counts of ACSA. Defendant was acquitted of the remaining charges. Defendant filed a motion for a new trial that was heard and denied on December 27, 2012, and the case proceeded to a joint sentencing hearing with case No. 10-CF-382.

¶ 40 C. Joint Sentencing Hearing

¶ 41 On December 27, 2012, case Nos. 10-CF-382 and 10-CF-393 were called for a joint sentencing hearing. In case No. 10-CF-382, the trial court sentenced defendant to consecutive

terms of natural life imprisonment on each of the nine PCSAC convictions, and terms of five years imprisonment on each of the eight ACSA convictions. The ACSA terms were concurrent with each other and consecutive to the PCSAC sentences. In case No. 10-CF-393, the court sentenced defendant to consecutive terms of natural life imprisonment on each of the five PCSAC convictions and concurrent terms of five years' imprisonment for each of the two ACSA convictions. The court ordered the natural life sentences in case No. 10-CF-393 to run consecutive to those imposed in case No. 10-CF-382. The ACSA sentences in case No. 10-CF-393 were ordered to run consecutive to the natural life sentences and concurrent with the ACSA sentences imposed in case No. 10-CF-382. Defendant filed a notice of appeal in both cases.

¶ 42

II. ANALYSIS

¶ 43

A. Motion to Suppress

¶ 44

Defendant argues the trial court should have suppressed his entire November 4, 2010, statement to the police because the statement was made during a custodial interrogation without *Miranda* warnings.

¶ 45

In reviewing a trial court's ruling on a motion to suppress evidence, we apply a two-part standard of review. *People v. Cosby*, 231 Ill. 2d 262, 271 (2008). We review the trial court's findings of fact for clear error, and we will reverse those findings only if they are against the manifest weight of the evidence. *Id.* We review *de novo* the trial court's ultimate legal ruling as to whether suppression is warranted. *Id.*

¶ 46

The fifth amendment of the United States Constitution, as applied to the States by the fourteenth amendment (*Malloy v. Hogan*, 378 U.S. 1, 6 (1964)), provides that "[n]o person *** shall be compelled in any criminal case to be a witness against himself." U.S. Const., amend. V. In *Miranda v. Arizona*, 384 U.S. 436, 467 (1966), the United States Supreme Court adopted

prophylactic measures to protect a suspect's fifth amendment privilege against compelled self-incrimination where a suspect is subject to the "inherently compelling pressures" of custodial interrogation. The *Miranda* court defined "custodial interrogation" as "question[s] initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." *Id.* at 444. The determination of whether a person is in custody requiring *Miranda* warnings involves two inquiries. First, the court must determine whether the interrogation is custodial by examining all of the circumstances surrounding the questioning. *People v. V.S.*, 244 Ill. App. 3d 478, 483 (1993). Second, in light of those circumstances, the court must make an objective determination as to whether a reasonable person, innocent of any crime, would have felt he was not at liberty to terminate the interrogation and leave. *People v. Slater*, 228 Ill. 2d 137, 150 (2008).

¶ 47 The determination of whether an interrogation is custodial should focus on all of the circumstances surrounding the interview including: (1) the location, time, length, mood and mode of the questioning; (2) the number of police officers present during the interrogation; (3) the presence or absence of family and friends of the individual; (4) any indicia of a formal arrest procedure, such as the show of weapons or force, physical restraint, booking or fingerprinting; (5) the manner by which the individual arrived at the place of questioning; and (6) the age, intelligence, and mental makeup of the accused. *Id.* After weighing these factors, the court must make an objective determination as to whether, under the evidence presented, "a reasonable person, innocent of any crime," would have believed that he could terminate the encounter and was free to leave. *People v. Braggs*, 209 Ill. 2d 492, 506 (2003).

¶ 48 In the case *sub judice*, the interview occurred after defendant voluntarily led the officers into his home, agreed to an interview, and allowed the officers to make an audio recording of the

interview. At the time, Romeo and Peck wore civilian clothing and carried concealed weapons. Romeo had advised defendant that he was not required to submit to the interview and defendant could terminate the interview at any time. In light of Romeo's statements and the setting of the interview, a reasonable person in defendant's position would have felt free to terminate the interrogation. However, that reasonable belief ended when defendant made the statement "I have nothing to lose *** [y]ou're either gonna put me in cuffs and arrest me" and Romeo responded "[t]hat's true." At this point, the tenor of the interview changed such that no reasonable interviewee, innocent of any crime, would have believed that he was free to end the encounter. As a result, the trial court correctly determined that the interview became a custodial interrogation at the point Romeo acknowledged that defendant would be subject to arrest. Therefore, the trial court did not err in suppressing only the later portion of the interview.

¶ 49

B. Other Offenses Evidence

¶ 50

Defendant argues the trial court abused its discretion in admitting evidence of uncharged sex offenses because the other offenses had little probative value and only caused prejudice.

¶ 51

Generally, evidence of a defendant's other crimes may be admitted if relevant for any purpose other than to show defendant's propensity to commit crime, so long as its probative value outweighs the prejudicial effect. *People v. Pikes*, 2013 IL 115171, ¶ 11. Propensity evidence tends to overpersuade the jury, which might convict defendant because it feels that defendant is a bad person deserving of punishment. Michael H. Graham, *Graham's Handbook of Illinois Evidence* § 404.5 at 241-42 (10th ed. 2010). In accord with this principle, Illinois Rule of Evidence 404(b) (Ill. R. Evid. 404(b) (eff. Jan. 1, 2011)) provides that, with certain specified exceptions, evidence of other crimes, wrongs, or acts is inadmissible to prove the character of a person in order to show action in conformity therewith. Rule 404(b) provides a limited

exception for admission of propensity evidence through application of section 115-7.3 of the Code (725 ILCS 5/115-7.3 (West 2010)). Ill. R. Evid. 404(b) (eff. Jan. 1, 2011). Our supreme court has noted that the propensity rule is of common law origin and, as such, it is not of constitutional magnitude. *People v. Dabbs*, 239 Ill. 2d 277, 292 (2010).

¶ 52 Section 115-7.3 applies to criminal cases in which a defendant is accused of various offenses, including PCSAC and ACSA. 725 ILCS 5/115-7.3(a)(1) (West 2010). Where defendant is accused of one of these offenses,

"evidence of the defendant's commission of another offense or offenses [of PCSAC or ACSA], or evidence to rebut that proof or an inference from that proof, may be admissible (if that evidence is otherwise admissible under the rules of evidence) and may be considered for its bearing on any matter to which it is relevant." 725 ILCS 5/115-7.3(b) (West 2010).

"Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." Ill. R. Evid. 403 (eff. Jan. 1, 2011); see also Gino L. DiVito, *The Illinois Rules of Evidence: A Color-Coded Guide* 35 (2013). The admission of propensity evidence under section 115-7.3 is limited by the incorporation of the rules of evidence and application of the Rule 403 balancing test. In conducting the Rule 403 balancing test, section 115-7.3 suggests that a court consider:

- "(1) the proximity in time to the charged or predicate offense;
- (2) the degree of factual similarity to the charged or predicate offense; or
- (3) other relevant facts and circumstances." 725 ILCS 5/115-7.3(c)(1) to (3) (West 2010).

¶ 53 The admissibility of evidence rests within the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion. *Pikes*, 2013 IL 115171, ¶ 12. A trial court abuses its discretion when its evaluation is arbitrary, fanciful or unreasonable or where no reasonable person would take the view adopted by the trial court. *People v. Donoho*, 204 Ill. 2d 159, 182 (2003).

¶ 54 Defendant concedes that the uncharged offenses occurred close in time to the charged offenses and were factually similar, but argues that the other-crimes evidence was of limited probative value and was highly prejudicial. We note, however, that

"the danger of unfair prejudice in the context of a section 115-7.3 case, as opposed to common-law other-crimes case, is greatly diminished by the very fact that section 115-7.3 upended the long-standing rule that other-crimes evidence to establish propensity is *per se* unfairly prejudicial—instead, introduction for propensity is actually proper." *People v. Perez*, 2012 IL App (2d) 100865 at ¶ 49.

While undue prejudice can arise under section 115-7.3, the limits on the trial court's decision to admit propensity evidence under this section are relatively modest, especially when combined with the highly deferential abuse-of-discretion standard of review. *Perez*, 2012 IL App (2d) 100865 at ¶ 49. In admitting evidence under this section, a court must carefully consider the quantity of other-crimes evidence and be mindful of its probative value and undue prejudice. *Id.* Any undue prejudice of " 'more thorough other-crimes evidence' " admitted under section 115-7.3 will be less unduly prejudicial than in an other-crimes case at common law. *Perez*, 2012 IL App (2d) 100865 at ¶ 49 (quoting *Walston*, 384 Ill. App. 3d at 622).

¶ 55 In the instant case, admission of evidence of defendant's sexual misconduct in Iowa was not an abuse of discretion. As defendant concedes, the other crimes were perpetrated against the

same victim, involved similar conduct, and occurred within a few months of the charged conduct. Although this evidence did not directly prove defendant committed the charged offenses, it was probative of defendant's propensity to engage in such acts with J.R. Moreover, because the other-crimes evidence was comparable to the evidence of the charged crimes and the court repeatedly instructed the jury on its limited use, defendant did not suffer undue prejudice by its admission. Consequently, the trial court's admission of defendant's other-crimes evidence was not arbitrary or unreasonable and was not an abuse of discretion.

¶ 56

C. Sentence

¶ 57

1. Natural Life Sentence

¶ 58

Defendant argues that the trial court erred in imposing multiple natural life sentences on his PCSAC convictions in case Nos. 10-CF-382 and 10-CF-393. Defendant contends that the plain language of the statute authorizes only a single natural life sentence. Defendant acknowledges that he did not raise this issue in a motion to reconsider sentence, but argues that his sentence is void because it was entered without statutory authority.

¶ 59

A sentence that is in conflict with statutory guidelines is void and may be challenged at any time. *People v. Roberson*, 212 Ill. 2d 430, 440 (2004). In *People v. Palmer*, 218 Ill. 2d 148, 163 (2006) (overruled by *People v. Petrenko*, 237 Ill. 2d 490 (2010)), our supreme court held that the imposition of consecutive life sentences was "contrary to the legislature's intent" and therefore void. Here, defendant raises a similar argument. Defendant contends that the plain language of section 12-14.1(b)(1.2) of the Criminal Code of 1961 (Criminal Code) authorizes the imposition of only a single sentence of natural life imprisonment. 720 ILCS 5/12-14.1(b)(1.2) (West 2010). Therefore, defendant's argument raises a voidness challenge that has not been forfeited.

¶ 60 Section 12-14.1(b)(1.2) states:

"A person convicted of predatory criminal sexual assault of a child committed against 2 or more persons regardless of whether the offenses occurred as the result of the same act or of several related or unrelated acts shall be sentenced to a term of natural life imprisonment." 720 ILCS 5/12-14.1(b)(1.2) (West 2010).

¶ 61 In case No. 10-CF-382, defendant was convicted of nine counts of PCSAC committed against J.R. In case No. 10-CF-393, defendant was convicted of five counts of PCSAC committed against A.F. Because defendant was convicted of PCSAC against two victims, section 12-14.1 required that defendant be sentenced to "a term of natural life imprisonment." 720 ILCS 5/12-14.1(b)(1.2) (West 2010). Therefore, we must determine whether the legislature intended that only a single life sentence should be imposed on all of the convictions or if a life sentence could be imposed on each conviction.

¶ 62 The cardinal rule of statutory interpretation is to ascertain and give effect to the intent of the legislature. *Donoho*, 204 Ill. 2d at 171. The best evidence of the legislative intent is the language of the statute. *Id.* When possible, the statutory language should be construed according to its plain and ordinary meaning. *Id.* Statutes are to be construed as a whole, so that no part is rendered meaningless or superfluous. *People v. McClure*, 218 Ill. 2d 375, 382 (2006). We review the interpretation of a statute *de novo*. *Donoho*, 204 Ill. 2d at 172.

¶ 63 In *People v. Hernandez*, 382 Ill. App. 3d 726 (2008), defendant argued that the trial court erred by imposing concurrent life sentences for his two PCSAC convictions. The reviewing court held that "the statute, read as a whole and given its plain and ordinary meaning" authorized one life sentence for each conviction and affirmed defendant's two concurrent life sentences. *Id.* at 730.

¶ 64 We agree with *Hernandez* that, when read as a whole and given its plain meaning, section 12-14.1 permits the imposition of multiple life sentences on each individual PCSAC conviction. The sentencing portion of section 12-14.1 speaks in terms of individual convictions, *i.e.*, "[a] person convicted of a violation" or "[a] person convicted of [PCSAC]." 720 ILCS 5/12-14.1(b)(1), (1.2) (West 2010). Reading the statute *in toto* and considering its ordinary meaning, we conclude that it specifies the sentence for each individual conviction imposed. Therefore, the trial court did not err by imposing separate life sentences on each of defendant's PCSAC convictions.

¶ 65 2. Consecutive Sentencing

¶ 66 Alternatively, defendant argues that the trial court erred by imposing consecutive life sentences on each of his PCSAC convictions because, similar to the facts in *Palmer*, 218 Ill. 2d 148, section 12-14.1 of the Criminal Code provided a separate sentencing scheme from that set forth in the Unified Code of Corrections and did not authorize the imposition of consecutive terms.

¶ 67 In *Petrenko*, 237 Ill. 2d 490, our supreme court clarified that *Palmer* "stands simply for the proposition that defendants sentenced to natural life in prison under the Habitual Criminal Act are not subject to the consecutive-sentencing provisions of the Unified Code of Corrections." *Id.* at 504. The supreme court further directed the Illinois courts to enforce section 5-8-4 as written "without regard to the practical impossibility of serving the sentences it yields." *Id.* at 507.

¶ 68 We find that the trial court did not err by ordering defendant's natural life sentences to be served consecutively. Section 5-8-4(d)(2) mandates the imposition of consecutive sentences where "[t]he defendant was convicted of a violation of Section *** 12-14.1 (predatory criminal

sexual assault of a child) of the Criminal Code of 1961." 730 ILCS 5/5-8-4(d)(2) (West 2012). Here, defendant was convicted of multiple PCSAC convictions under section 12-14.1 of the Criminal Code in both cases. Therefore, section 5-8-4(d)(2) requires the imposition of consecutive sentences.

¶ 69

CONCLUSION

¶ 70

The judgments of the circuit court of Henry County are affirmed.

¶ 71

No. 3-13-0066, Affirmed.

¶ 72

No. 3-13-0067, Affirmed.