

NOTICE

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2014 IL App (4th) 120953-U

NO. 4-12-0953

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

January 27, 2014

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Macon County
PIERRE C. LADD,)	No. 12CF230
Defendant-Appellant.)	
)	Honorable
)	Timothy J. Steadman,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Presiding Justice Appleton and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court found the trial court did not abuse its discretion in sentencing defendant to 4 1/2 years in prison.

¶ 2 In May 2012, a jury found defendant, Pierre C. Ladd, guilty of aggravated battery. In July 2012, the trial court sentenced him to four years and six months in prison.

¶ 3 On appeal, defendant argues the trial court abused its discretion in imposing the 4 1/2-year prison sentence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In February 2012, the State charged defendant by information with one count of robbery (count I) (720 ILCS 5/18-1 (West 2010)), alleging he took property, being a jacket and a wallet, from the person of Stephen Parker by the use of force. The State also charged defendant with one count of aggravated battery (count II) (720 ILCS 5/12-3.05(a)(1) (West 2010)), alleging

he, in committing a battery and without legal justification, knowingly caused great bodily harm to Parker, in that he struck Parker in the face with his fist and caused facial bone fractures.

¶ 6 In May 2012, defendant's jury trial commenced. Stephen Parker testified he arrived at the residence of Letrina Brazier at approximately 9:30 p.m. on February 5, 2012. They had planned to eat pizza and watch movies. After Brazier's children were taken to bed, Parker heard a "banging on the door." Brazier stated the person at the door was her "baby daddy." Parker told her she could answer the door, and he would "go out the back door" to avoid a confrontation. However, Parker encountered defendant, who asked what Parker was doing there. Parker responded that he was there "with yo [sic] baby momma." Parker left and then "got jumped on" in the driveway. Parker stated defendant started punching him in the face. Defendant hit him twice before Parker blacked out. After he regained consciousness, Parker received a towel from Brazier and then called an ambulance. Parker stated he was missing his wallet and the money he had in his pocket. Parker testified he never touched defendant and did not threaten him. He stated he received a broken nose and jaw.

¶ 7 Decatur police officer Stephen Kennedy testified he arrived on the scene and found Parker, who had blood around his nose and on his shirt. Kennedy found Brazier "very uncooperative." Parker refused medical treatment.

¶ 8 Decatur police officer Troy Kretsinger testified he conducted an interview of defendant. Defendant stated he was about to enter the front door of Brazier's residence by using a key, when he heard a commotion on the side of the house. Upon investigating, he observed Parker exiting the home. The two engaged in a physical confrontation, and defendant punched Parker in the nose. Defendant agreed he should be charged with battery or aggravated battery but not robbery or mob action.

¶ 9 The jury found defendant guilty of aggravated battery, but the trial court declared a mistrial on the robbery count. In June 2012, defendant filed a motion for judgment notwithstanding the verdict or for a new trial. In July 2012, the court denied the motion.

¶ 10 At the July sentencing hearing, the State did not present any evidence in aggravation. In mitigation, Brazier testified defendant was her boyfriend and the father of her seven-month-old daughter. She stated defendant played with her three other children and would watch them. He also helped change and feed his infant daughter prior to his incarceration. Defendant provided financial support by mowing lawns and shoveling snow. Shawntell O'Neal, a friend of Brazier, testified defendant fed and played with the children, and they all called him dad.

¶ 11 Defendant testified he was on parole when he committed the offense. He stated he provided care and financial support for the children. He obtained money by doing odd jobs or receiving small amounts from family. On cross-examination, defendant indicated he had one job in his life and quit.

¶ 12 In allocution, defendant admitted setting a bad example for his children and asked the trial court to forgive him. He also asked the court not to "sentence me for who I am, but for my children and their future."

¶ 13 The trial court sentenced defendant to four years and six months in prison. In August 2012, defendant filed a motion to reconsider sentence, which the court denied. This appeal followed.

¶ 14 **II. ANALYSIS**

¶ 15 Defendant argues his prison sentence was excessive in light of his caregiver status, his rehabilitative potential, his remorse, and the impact his conduct had on Brazier's

family and their seven-month-old daughter. We disagree.

¶ 16 The Illinois Constitution mandates "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. "In determining an appropriate sentence, a defendant's history, character, and rehabilitative potential, along with the seriousness of the offense, the need to protect society, and the need for deterrence and punishment, must be equally weighed." *People v. Hestand*, 362 Ill. App. 3d 272, 281, 838 N.E.2d 318, 326 (2005) (quoting *People v. Hernandez*, 319 Ill. App. 3d 520, 529, 745 N.E.2d 673, 681 (2001)).

¶ 17 A trial court has broad discretion in imposing a sentence. *People v. Chester*, 409 Ill. App. 3d 442, 450, 949 N.E.2d 1111, 1118 (2011). "A sentence will be deemed an abuse of discretion where the sentence is 'greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.'" *People v. Alexander*, 239 Ill. 2d 205, 212, 940 N.E.2d 1062, 1066 (2010) (quoting *People v. Stacey*, 193 Ill. 2d 203, 210, 737 N.E.2d 626, 629 (2000)).

"The trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference. [Citations.] '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.' [Citation.] 'The trial judge has the opportunity to weigh such factors as the defendant's credibility, demeanor, general moral character, mentality, social

environment, habits, and age. [Citations.] Consequently, the reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently. [Citation.]' *Stacey*, 193 Ill. 2d at 209." *Alexander*, 239 Ill. 2d at 212-13, 940 N.E.2d at 1066.

¶ 18 In the case *sub judice*, the jury found defendant guilty of aggravated battery, a Class 3 felony. 720 ILCS 5/12-3.05(h) (West 2010). A person convicted of a Class 3 felony is subject to a sentencing range of two to five years in prison. 730 ILCS 5/5-4.5-40(a) (West 2010). Because defendant was on parole for a prior felony conviction at the time he committed the present felony offense, he was eligible for an extended term of imprisonment of not less than 5 years in prison and not more than 10 years. 730 ILCS 5/5-4.5-40(a) (West 2010); 730 ILCS 5/5-5-3.2(a)(12), 5-5-3.2(b) (West 2010). As the trial court's sentence of 4 1/2 years in prison was within the relevant sentencing range, we will not disturb the sentence absent an abuse of discretion.

¶ 19 Defendant argues the trial court abused its discretion in sentencing him by failing to appropriately consider his rehabilitative potential, the support of his family, his expression of remorse, and his role as a caregiver to the children. Defendant points out he completed primary drug treatment and never tested positive for drugs. He also completed a few education classes and did odd jobs to help Brazier and their daughter financially. Defendant also had the support of his family and Brazier, and he took care of the children when necessary.

¶ 20 The State points out defendant was 24 years old at the time of the crime. He also had an extensive criminal history, which included two misdemeanors and three prior felonies. One of those felonies involved a Class X conviction for armed robbery, for which he was on

parole at the time of the present offense. The trial court indicated it had considered the presentence report, the evidence in mitigation, defendant's statement in allocution, and the statutory factors in mitigation and aggravation. The court found a sentence of probation would deprecate the serious nature of the offense and be inconsistent with the ends of justice. The court also noted defendant had some positive factors but balanced those against the aggravating factor of his prior criminal history.

¶ 21 Upon reviewing the record, we find the trial court did not abuse its discretion in sentencing defendant to prison. The record shows the court considered appropriate factors in aggravation and mitigation, the presentence investigation, the arguments of counsel, and defendant's statement. While the court noted defendant had some positive factors in his favor, the court returned to the aggravating factors, including defendant's felonious past and the fact that the present offense was committed while he was on parole. While defendant may have shown some rehabilitative potential, such potential " 'is not entitled to greater weight than the seriousness of the offense.' " *Alexander*, 239 Ill. 2d at 214, 940 N.E.2d at 1067 (quoting *People v. Coleman*, 166 Ill. 2d 247, 261, 652 N.E.2d 322, 329 (1995)).

¶ 22 We find the sentence imposed on defendant by the trial court was not "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Stacey*, 193 Ill. 2d at 210, 737 N.E.2d at 629. Accordingly, we hold the court did not abuse its discretion in sentencing defendant to 4 1/2 years in prison.

¶ 23 III. CONCLUSION

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

¶ 25

Affirmed.