

SIXTH DIVISION
January 30, 2015

No. 1-13-1217

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 6713
)	
WESLEY ROZEMA,)	Honorable
)	Clayton J. Crane,
Defendant-Appellant.)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Justices Hall and Rochford concurred in the judgment.

O R D E R

¶ 1 **Held:** Twelve-year sentence for robbery of a person over 60 years of age was not excessive.

¶ 2 Following a bench trial, defendant Wesley Rozema was found guilty of armed robbery, robbery of a person over 60 years of age, and aggravated robbery. The court merged defendant's convictions and sentenced him to a 13-year term of imprisonment for armed robbery. On direct appeal, this court vacated defendant's armed robbery conviction and remanded for resentencing

on his remaining two convictions. Following a re-sentencing hearing, the court sentenced defendant to a 12-year term of imprisonment. On appeal, defendant contends that his sentence is excessive.

¶ 3 Defendant was charged with armed robbery, robbery of a person over 60 years of age, and aggravated robbery in connection with an incident that occurred on the morning of March 25, 2010. At trial, defendant was convicted of all three offenses on evidence showing that on the day of the incident, he and his cohort, Antoine Miller, approached 70-year old Coleman Stokes on the street and took \$186 from his shirt pocket. During the incident, defendant aimed a BB gun at Stokes.

¶ 4 At the sentencing hearing, in aggravation, the State pointed to defendant's history of criminal convictions, as reflected in his presentence investigation report (PSI). The PSI reflects that defendant had 10 prior Class 2 felony convictions and 1 prior Class 4 felony conviction for offenses including robbery, burglary, forgery, and misuse of credit card. The State argued that due to his extensive criminal background, and the facts of this case, defendant needed to learn a lesson, and requested that he be sentenced to a term of 18 years' imprisonment.

¶ 5 In mitigation, defense counsel argued that many of defendant's prior convictions were due to his drug problem, for which he was seeking help, and that defendant had obtained a GED, an associate's degree, as well as a bachelor's degree in business. Defense counsel requested a more lenient sentence of 10 years' imprisonment.

¶ 6 Defendant's sister, Theresa Bamback, then spoke on his behalf and asked that the court show some consideration for defendant's drug addiction in determining his sentence. She further stated that defendant's family was committed to assisting him in seeking treatment for his addiction. Defendant's brother, Neil Rozema, also spoke on his behalf, and echoed Bamback's

sentiments. Defendant spoke in allocution and expressed remorse for the incident. He acknowledged his drug and alcohol addictions and stated that he intended to seek help to overcome them.

¶ 7 The trial court sentenced defendant to a 13-year term of imprisonment for armed robbery, and denied defendant's subsequently filed motion to reconsider sentence. On direct appeal, however, this court vacated defendant's armed robbery conviction because defendant used a BB gun to commit the offense, which is not a firearm for purposes of the armed robbery statute. *People v. Rozema*, 2012 IL App (1st) 110892-U, ¶ 2. This court remanded defendant's case for resentencing on his remaining convictions of robbery of a person over 60 years of age and aggravated robbery. *Id.* ¶ 4.

¶ 8 At the resentencing hearing, the State pointed to defendant's criminal background and noted that he is subject to mandatory Class X sentencing as a result of that background. The State argued that defendant is a lifelong criminal and requested that he be sentenced to the same 13-year term of imprisonment that had been previously imposed on him.

¶ 9 In mitigation, defense counsel argued that following his prior sentencing hearing, defendant has taken steps to address his drug and alcohol addictions by receiving treatment while in custody, and has completed master craftsman courses in weatherboards, cement, vinyl siding and millwork, as well as earned vocational certificates in maintenance and construction occupation. Defense counsel also pointed out that defendant is currently working toward his bachelor's degree. Bamback spoke on defendant's behalf and stated that not only is defendant seeking help for his addictions, but that defendant's family members are also attending meetings and programs to better equip themselves to assist him with his recovery.

¶ 10 Defendant spoke in allocution, stating that he has been attending Alcoholics Anonymous and Narcotics Anonymous meetings and has been working diligently in order to change who he is and to identify what triggers him to relapse. Defendant further stated that he is attending college and wants to become a part of society again.

¶ 11 The court sentenced defendant to a 12-year term of imprisonment for robbery of a person over 60 years of age. In doing so, the court stated that in arriving at that sentence, it had considered the facts of the case, all the requisite statutory factors, the PSI, the arguments made in mitigation and aggravation, and defendant's statements in allocution. The court also stated that although it is apparent defendant is working hard on his rehabilitation, it was not the only factor to consider in arriving at its determination. The court denied defendant's subsequently-filed motion to reconsider sentence.

¶ 12 On appeal, defendant does not contest the sufficiency of the evidence to sustain his conviction, but argues that his 12-year sentence is excessive in light of extensive mitigating evidence of accomplishments he has achieved since his original sentencing hearing. Specifically, he points to the fact that he has obtained certificates for vocational courses in construction, attended college, and participated in regular meetings for narcotics and alcoholics anonymous in an effort to overcome his addiction. He further argues that the facts of this case do not warrant a 12-year sentence. He thus requests that this court reduce his sentence.

¶ 13 Defendant does not contest that due to his criminal background, he was subject to Class X sentencing for this offense, resulting in an applicable sentencing range of 6 to 30 years. 720 ILCS 5/18-1(a) (West 2010); 730 ILCS 5/5-8-1(a)(3) (West 2010). Where, as here, the sentence imposed by the court falls within the statutory range for the offense of which defendant is convicted, it may not be disturbed unless it constitutes an abuse of discretion. *People v.*

Gutierrez, 402 Ill. App. 3d 866, 900 (2010). Such a sentence will be found excessive only if it is manifestly disproportionate to the nature of the offense or if it is at great variance with the spirit and purpose of the law. *People v. McGee*, 398 Ill. App. 3d 789, 795 (2010). We do not find this to be such a case.

¶ 14 Defendant's 12-year sentence fell within the appropriate sentencing range, and was imposed after the trial court heard arguments from both counsel and stated that it had considered the evidence presented in aggravation and mitigation, including the PSI, the requisite statutory factors, and defendant's own words. Although the trial court did not specifically mention each of the mitigating factors upon which defendant now relies, such as his numerous vocational certificates, the trial court is not required to recite and assign a value to each mitigating factor (*People v. Meeks*, 81 Ill. 2d 524, 534 (1980)), and is presumed to have considered all relevant factors absent a contrary showing in the record (*People v. Franks*, 292 Ill. App. 3d 776, 779 (1997)). We find none here, particularly where the trial court specifically acknowledged defendant's rehabilitative efforts in announcing its determination. It is not our function to reweigh the factors considered by the court and substitute our opinion for that of the trial court (*People v. Coleman*, 166 Ill. 2d 247, 261-62 (1995)), and here we find no abuse of discretion in the 12-year sentence imposed by the court (*McGee*, 398 Ill. App. 3d 794-95).

¶ 15 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 16 Affirmed.