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2015 IL App (3d) 140350-U

Order filed July 6, 2015

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2015

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| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the Circuit Court of the 10th Judicial Circuit, Peoria County, Illinois, |
| Plaintiff-Appellee,                  | ) |  |
| v.                                   | ) | Appeal No. 3-14-0350   |
|                                      | ) | Circuit No. 11-CF-67   |
| RICKY J. RICHARDSON,                 | ) |  |
| Defendant-Appellant.                 | ) | Honorable Stephen A. Kouri, Judge, Presiding.  |

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JUSTICE SCHMIDT delivered the judgment of the court.  
Justices Carter and Wright concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Trial court did not abuse its discretion in imposing a cumulative sentence of 46 years' imprisonment.
- ¶ 2 A Peoria County jury found defendant, Ricky J. Richardson, guilty of criminal sexual assault (720 ILCS 5/12-13(a)(2) (West 2010)), child pornography (720 ILCS 5/11-20.1(a)(1)(vii) (West 2010)), and criminal sexual abuse (720 ILCS 5/12-15(a)(2) (West 2010)). The court sentenced defendant to consecutive terms of 30, 15, and 1 years' imprisonment on those



¶ 8 On appeal, this court found that defendant was not eligible for extended-term sentencing on the criminal sexual abuse conviction, and remanded for resentencing. *People v. Richardson*, 2013 IL App (3d) 120049-UB, ¶¶ 12-23, 25.

¶ 9 At defendant's resentencing hearing, the parties adopted the original presentence investigation report (PSI). The PSI indicated that defendant was 19 years old when the present offenses were committed. The PSI also described defendant's extensive criminal history.

¶ 10 In 2008, defendant was adjudicated delinquent in Cook County based upon the offense of robbery and was sentenced to juvenile probation. Defendant violated that probation, but was recommitted to probation. That probation was terminated as unsuccessful in 2009, when defendant was charged with Class 1 robbery in Peoria County. Defendant was again sentenced to probation, but probation was revoked after defendant violated probation by committing the offense of theft (case No. 10-CM-1932). At the time the PSI was published, defendant also had an active bench warrant out in Kane County on a charge of Class A domestic battery.

¶ 11 The PSI also indicated that defendant was raised by his single mother until he was nine years old, when his mother's parental rights were terminated based on neglect. Defendant reported being in nine foster homes. Defendant also reported that he suffered physical and sexual abuse while in one foster home. Defendant did not meet his father until he was 16 years old. The PSI indicated that defendant reported first using alcohol at the age of 12 and cannabis at the age of 13. He reported that he regularly consumed cannabis, ecstasy, and alcohol up to the time of the present offenses. Defendant had been hospitalized on at least three occasions for mental health issues.

¶ 12 Defendant wrote a letter to the court, which was included in the PSI. In the letter, defendant stated that he was "very remorseful about this situation." He insisted that the victim

told him she was 18 years old, and offered to take a polygraph test. "One thing is for certain [sic], God will be a final judge to everyone, including my accusers," defendant wrote. Defendant further stated: "I am guilty for being an irresponsible, immature, alcoholic, drug using teenage/adult, and because of me drinking and using drugs to cope or forget about my past, it caused someone else to be hurt [sic]."

¶ 13 Defense counsel briefly reiterated the facts in mitigation, including defendant's "rough childhood" and his young age. Defendant then made a brief statement in which he pointed out that "no one died in this situation or was really hurt." Before imposing sentences, the court stated: "I've considered the [PSI], the evidence and arguments presented by the parties, the statement made by the Defendant. I've considered the statutory matters in aggravation and mitigation, the history and character of the Defendant, circumstances and nature of the offense." The court then imposed sentences of 30 years' imprisonment for criminal sexual assault, 15 years' imprisonment for child pornography, and 1 year' imprisonment for criminal sexual abuse, to be served consecutively.<sup>1</sup>

¶ 14 ANALYSIS

¶ 15 On appeal, defendant contends that the court's cumulative sentence was excessive. Specifically, he argues that the court failed to give adequate weight to his background and his remorse for the offense. We disagree.

¶ 16 A trial court has wide discretion in sentencing a criminal defendant. *People v. Markley*, 2013 IL App (3d) 120201, ¶ 31. The trial court's sentencing decision is granted great deference

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<sup>1</sup> At the resentencing hearing, the court did not specify the basis for consecutive sentences. However, at the initial sentencing hearing, the court found that consecutive sentences were necessary for the protection of the public.

by reviewing courts because the trial court is generally in a better position to determine the appropriate sentence since the trial court has the opportunity to weigh factors like "the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). It is not our duty to reweigh the factors involved in the trial court's sentencing decision. *People v. Alexander*, 239 Ill. 2d 205, 214-15 (2010). It is presumed that the court considered any mitigating evidence absent some indication, other than the sentence itself, to the contrary. *People v. Thompson*, 222 Ill. 2d 1, 37 (2006).

¶ 17 We review the trial court's sentencing decision for an abuse of discretion. *Markley*, 2013 IL App (3d) 120201, ¶ 31. When a sentence falls within the statutory range,<sup>2</sup> it does not constitute an abuse of the trial court's discretion unless it is manifestly disproportionate to the nature of the offense. *Id.*

¶ 18 We find that the trial court's cumulative sentence of 46 years' imprisonment was not manifestly disproportionate to the nature of the offense. The video shown at defendant's trial showed defendant and his friends laughing while they sexually assaulted a semiconscious 16-year old girl. While not assaulting her, the defendants take turns smearing the naked victim with peanut butter and spraying her with cleaner. The defendants seem to take great pleasure in recording all of this behavior on a cell phone. Defendant repeatedly points out that the cumulative sentence (46 years) he received was 38 years over the minimum. We note, however,

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<sup>2</sup> The sentencing range for criminal sexual assault and child pornography—Class 1 felonies for which defendant was extended-term eligible—was between 4 and 30 years' imprisonment. 730 ILCS 5/5-4.5-30(a) (West 2010). The Class 4 felony of criminal sexual abuse was punishable by up to three years' imprisonment. 730 ILCS 5/5-4.5-45(a) (West 2010). Defendant concedes that each sentence imposed was within the statutory range.

that the maximum possible cumulative sentence defendant faced was 66 years' imprisonment. Given the heinous nature of his offense and his criminal history, a sentence of just more than two-thirds of the maximum is far from an abuse of the trial court's discretion.

¶ 19 Defendant maintains that the trial court failed to give proper consideration to defendant's upbringing, as well as his remorse for the offense. However, there is no indication from the record that the trial court failed to consider any factor in mitigation, including defendant's upbringing or his remorse for the offense. As outlined above in paragraph 10, this is not defendant's first brush with the law. Presumably he was remorseful for his previously offenses. He received light sentences and yet continued to reoffend. While defendant's upbringing is tragic and may have contributed to his behavior, the fact remains that, regardless of his background, defendant poses a serious threat to the public. Indeed, defendant has not identified anything from the record that would defeat the presumption that the trial court failed to consider these mitigating factors. See *Thompson*, 222 Ill. 2d at 37. Instead, defendant's argument is merely an invitation for this court to reweigh the factors in aggravation and mitigation. We refuse to do so. See *Alexander*, 239 Ill. 2d at 214-15. Accordingly, we affirm the sentencing order entered by the trial court.

¶ 20 CONCLUSION

¶ 21 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 22 Affirmed.