FIRST DIVISION
February 8, 2016

Nos. 1-14-0379 & 1-14-0658
Consolidated

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. 13 CR 3887
	)	
NATHANIEL McCULLOR,	)	Honorable
	)	Thaddeus L. Wilson,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Liu and Justice Connors concurred in the judgment.

O R D E R

¶ 1 *Held*: Evidence sufficient to convict defendant of delivery of a controlled substance over his entrapment claim. Sentence of 12 years' imprisonment for delivery of a controlled substance by mandatory Class X offender not excessive. Mittimus corrected to properly reflect pre-sentencing detention credit.

¶ 2 Following a 2013 jury trial, defendant Nathaniel McCullor was convicted of delivery of a controlled substance and sentenced as a mandatory Class X offender to 12 years' imprisonment. On appeal, defendant contends that the evidence was insufficient to convict him and in particular was insufficient to disprove entrapment. He also contends that his sentence was excessive.

Lastly, he contends that he is entitled to one more day of pre-sentencing detention credit than is reflected on the mittimus. For the reasons stated below, we correct the mittimus and otherwise affirm the judgment.

¶ 3 Defendant and codefendant Brian Polk[1] were charged with delivery of a controlled substance – less than one gram of cocaine – allegedly committed on January 27, 2013.

¶ 4 At trial, police officer William Pierson testified that, on the morning in question, he was in a police unit targeting narcotics sales; as he went out with the unit to serve as undercover "buy" officer, he had pre-recorded currency. Upon arriving at the scene of the investigation in an unmarked car, he "already had a description of a subject that was standing on the corner" from a surveillance officer. Officer Pierson walked to the described intersection and saw defendant, who matched the description; defendant was standing by himself but other people were walking nearby. Officer Pierson walked up to defendant and asked "are you straight?" meaning if he was working. Defendant "asked me what I was trying to do" but then asked what Officer Pierson was looking for. He replied "I do both C and D" referring to cocaine and heroin respectively. Defendant did not ask what he meant by C or D but instead whether he was a police officer; he denied it. Defendant then said that he had to make a phone call to "get it for you," took out his cellphone, and asked Officer Pierson to walk with him as he made a call. However, defendant did not make a call until he said "there he go right there" and pointed to a red van passing nearby. Defendant then made a brief phone call as he and Officer Pierson continued walking until they turned a corner, where Officer Pierson saw the red van about a half-block ahead.

¶ 5 After defendant and Officer Pierson walked to the red van, defendant asked Officer Pierson "how many I wanted to get," and he replied two, before giving defendant two pre-

[1] Before defendant's trial, codefendant pled guilty and received six years' imprisonment.

recorded $10 bills. Defendant entered the van, had a brief conversation with the driver (who Officer Pierson later learned to be codefendant), handed the driver money, and was handed a small item. After another brief conversation with the driver, defendant exited the van, rejoined Officer Pierson, and they walked away. As they walked, defendant handed Officer Pierson two plastic bags of a substance he suspected to be cocaine. They continued walking together briefly until they parted ways, then Officer Pierson returned to his car. He reported his purchase to other officers by radio and directed them to detain defendant and the driver of the red van if possible.

¶ 6 Some time later, Officer Pierson learned by radio that first codefendant and then defendant had been detained. He drove past where defendant was detained and then where codefendant was detained near the red van, telling other officers by radio each time that they had detained the correct men. A short time after that, Officer Pierson learned by radio that pre-recorded funds had been recovered. He brought the two bags of suspected cocaine to the police station and there gave them to Officer Michael Killeen to be inventoried. Officer Killeen gave two $10 bills to Officer Pierson, who confirmed them to be the bills he used.

¶ 7 On cross-examination, Officer Pierson reiterated that he approached defendant, who was standing at a bus stop, without having seem him engage in suspected narcotics transactions. As they walked, they conversed generally about "being old timers." When defendant remarked that "you got to be careful out here," Officer Pierson said that "I didn't like messing with these young boys out here because they like to mess with you." To his knowledge, the two $10 bills were recovered from codefendant. His report was not verbatim and did not mention his "C or D" remark as he considered it unimportant. He had made undercover purchases or contacts almost every workday and testified about 25-30 times in 2013.

¶ 8 Officer Daniel Gutierrez testified that, on the day in question, he was serving as a surveillance officer in the same unit as Officer Pierson. He saw Officer Pierson walk up to

defendant at a corner bus stop and speak with him, followed by them walking away together. Officer Gutierrez drove ahead of them and saw them continue walking until they stopped and were joined by a red van. Defendant entered the van and was inside briefly before returning to Officer Pierson. Defendant handed Officer Pierson a small object and they walked away. Officer Gutierrez told other officers by radio the location of defendant and the van. After defendant and Officer Pierson each went his own way, Officer Gutierrez lost sight of defendant and instead saw other officers approach the van and detain the driver, who was codefendant. A few minutes later, Officer Gutierrez saw defendant walk by and reported this to other officers, who detained defendant in Officer Gutierrez's view.

¶ 9 Officer Michael Killeen testified to being one of the enforcement officers who detained defendant following radio reports, including descriptions, by Officers Pierson and Gutierrez. After he detained defendant, Officer Pierson said by radio that the detained man was the man who sold him suspected narcotics. Officer Killeen then arrested defendant. Other officers who had detained codefendant brought him to Officer Killeen, who heard Officer Pierson identify this detained man as the other participant in the transaction. Officer Killeen then arrested and searched codefendant, finding currency including two pre-recorded $10 bills. Officer Pierson concurred that the bills were pre-recorded, and Officer Killeen returned the bills to him at the police station. Officer Pierson gave the two bags of suspected cocaine he had purchased to Officer Killeen, who inventoried them.

¶ 10 Forensic chemist Tiffany Neal of the State Police Forensic Science Center testified that she received the bags of suspected cocaine in this case, weighed and tested the rocky substance therein, and found it to be a tenth of a gram containing cocaine.

¶ 11 Defendant sought a directed verdict, which the court denied after arguments.

¶ 12 Defendant testified that he was born in 1964 and has a college degree in electrical engineering, and he admitted to convictions for forgery in 2009 and retail theft in 2007, 2009, and 2011. On the morning in question, he was at a particular intersection waiting at a bus stop for a friend, Trina Cole, to return a borrowed transit pass; he had no intention to engage in a narcotics transaction. He waited for about an hour, during which a "rough-looking" or "raggedy" man – Officer Pierson – asked who was working the area. Defendant "didn't pay much attention to him," and Officer Pierson repeated the question; defendant again did not answer. Defendant was by himself, but Officer Pierson asked the question while "looking around" without "really look at me." Officer Pierson then asked where he could get "a couple of rocks," and defendant replied "around on the next block" because a red van had passed by earlier and an occupant, codefendant, said that the van would be in the next block if anyone was looking for "rock." While defendant had seen codefendant previously, he had not spoken with him and had no agreement with him to sell narcotics. Officer Pierson asked defendant to walk with him to the van because "they don't know me," but defendant demurred that he was waiting for someone to return his pass. Officer Pierson asked defendant again to walk with him, arguing that it would "take but a minute."

¶ 13 Defendant then accompanied Officer Pierson to the van "to get rid of him because he was bugging me." Officer Pierson did not ask defendant if he was straight or mention "C or D," nor did defendant reply by asking what he was looking for. However, defendant did ask Officer Pierson if he was an officer, and defendant knew that C referred to cocaine and D to heroin. Defendant made a call on his cellphone to Cole to ask her to wait at the bus stop if he was not there when she arrived, but she did not answer. Defendant went with Officer Pierson to the van, engaging in "some banter" about their age. As they walked, a passerby remarked that "rocks" were for sale in the red van, and Officer Pierson gestured for them to walk on. When they arrived

at the van, Officer Pierson remarked that "they know your face already" and "someone in the van" gestured for defendant to approach. Officer Pierson gave defendant two $10 bills and defendant entered the van and traded the bills for "two plastic bags of rocks," with no offer of consideration by codefendant or anyone else in the van. Defendant gave the bags of cocaine to Officer Pierson and immediately walked away; that is, he did not walk with Officer Pierson after delivering the cocaine. However, after defendant walked some distance into an alley, Officer Pierson followed him into the alley and offered him some of the cocaine "for your time," but he replied "I don't use." Officer Pierson then offered defendant some money, which he also declined.

¶ 14 The State argued that defendant had failed to present evidence of entrapment that would justify arguments or jury instructions on entrapment. Following arguments, the court found that the entrapment defense would be submitted to the jury.

¶ 15 In rebuttal, Officer Pierson testified that, as he walked with defendant between the corner where they met and the red van, nobody approached them or told them that the red van had "rocks" or cocaine. When they parted ways, defendant entered the alley but Officer Pierson did not enter the alley nor did he offer defendant either money or any of the cocaine that defendant had just sold him.

¶ 16 Following closing arguments, the jury received instructions including the defense of entrapment. During deliberations, the jury sent a note asking the court if it is "legal for an undercover police officer to say he is not a cop," what procedure is used in selecting a "target" including whether defendant was under surveillance "for any length of time," and if "any other drugs were recovered in the van in addition to the money." The parties and court concurred that the court should reply to the jury that it had all of the evidence and should continue deliberating,

and the court so replied. Following further deliberation, the jury found defendant guilty of delivery of a controlled substance.

¶ 17 Defendant filed a post-trial motion that, in relevant part, challenged the sufficiency of the evidence including the evidence that he was not entrapped. Following arguments, the court denied the motion, finding that the State rebutted entrapment, "the officer" was credible, and a reasonable jury could find his testimony more credible than defendant's testimony.

¶ 18 The pre-sentencing investigation report (PSI) lists defendant's prior convictions. He received prison terms of two years for forgery in 2009, seven years for attempted aggravated robbery in 1999, and three years for possession of a stolen motor vehicle in 1995. He also had 11 convictions for theft and retail theft from 1989 to 2011 with sentences ranging from probation to short jail terms to prison terms of two years in 2005, two years in 2007, and one year in 2009. The PSI also indicates that defendant was born in 1964 as ninth of 12 children born to married parents; his father died when he was 10 years old and his mother raised him thereafter. He denied being involved in crime or gangs during his "normal" childhood without abuse or neglect. He has four adult children, was married from 1989 to 1994, and was living with his girlfriend Vanessa Land as of the instant offense. He told the PSI preparer that he would live with his sister upon completing the instant sentence; the PSI preparer had not made contact with defendant's sister to confirm this. In 1986, defendant received a bachelor's degree in electrical engineering from a Texas university. He was a temporary laborer from 2003 and 2009 and unemployed thereafter, with financial support from his sister. He denied any physical or mental health issues but was a recovering cocaine addict; he denied using any illegal drugs since 2011, when he began drug treatment that he completed in 2012. He denied any gang affiliation.

¶ 19 At sentencing on November 22, 2013, the parties stated that they had reviewed the PSI, and the State amended it to add that defendant's probation for the 2011 retail theft terminated

unsatisfactorily. The State argued that defendant was a mandatory Class X offender with nine felony convictions and various theft convictions from 1989 onwards, and sought a prison sentence of 15 years.

¶ 20 The defense argued that such a sentence would be excessive. Counsel argued that defendant is a college graduate and "close to his children" with a criminal history of mostly "relatively minor" thefts "but he's otherwise worked and attempted to be a productive member of society." Counsel argued that defendant has problems that he is working to resolve, including that he is a recovering drug addict, and that he would have a place to live after prison. The defense noted that the instant offense is a Class 2 felony, argued that his prior "offenses are already built in the fact he's Class X mandatory," and sought a minimum sentence.

¶ 21 Defendant's fiancée Vanessa Land testified that she has known and been engaged to defendant for eight years and considers him a "warm [and] generous" person who can be "a little silly" and make her laugh. "He spends a lot of time with his children, grandkids, sisters, brothers-in-law." He has an addiction to or dependency on narcotics so that "when he starts, it is hard to stop." Land tried to discourage this addiction and encourage defendant to get help, as did his family members. While he did seek help, he can be "high" for two to four days once he begins using drugs, and he responds to treatment or intervention for a while but then relapses. Land opined that, with successful drug treatment, defendant could be a productive member of society.

¶ 22 The court received a letter from the Sheriff's Inmate Behavior Management Program (Program) explaining that the Program "rewards [jail] detainees for having exemplary behavior with minimal infractions" and certifying that defendant was enrolled in the Program since January 2013 and "has been successful in modifying previous behavior and has complied with the" Program's rules.

¶ 23 Defendant addressed the court, stating that he was granted probation for his last offense in 2011 and served 19 months of probation with "no violations." His drug tests were negative, his progress reports were "good," he received various certificates, and in sum he did all he had to do to stay "clean." He told the court that he realized that preventing his drug use by awareness of his "triggers" was more important than recovering from it and opined that he is now able to stay drug-free. Concluding that "I had no intention of doing what happened," he asked for the minimum sentence.

¶ 24 When the court asked defense counsel what defendant's pre-sentencing credit was, he twice said 299 days and twice mentioned 298 days, then after further consideration said 300 days including the day of arrest. Defendant stated that he was in custody 299 days. Noting that defendant was arrested on January 27, 2013, and was being sentenced on November 22, the court found that this constituted 298 days.

¶ 25 The court found that defendant had "great potential that [he] squandered" and noted that the criminal justice "system and the community have had to deal with you pretty much every other year or so," and had given him "ample opportunity to get [his] act together [and] take advantage of treatment opportunities." The court found that defendant had escalated from feeding his drug habit with retail theft to selling drugs. The court recited that it "considered the evidence at trial, the gravity of the offense, the [PSI], financial impact of incarceration, all evidence, information, testimony in aggravation and mitigation, any substance abuse issues and treatment, potential for rehabilitation, possibility of sentencing alternatives, the statement of the defendant, and all hearsay presented and deemed relevant and reliable." The court sentenced defendant to 12 years' imprisonment with 298 days of pre-sentencing detention credit. The mittimus includes a finding that defendant was sentenced as a mandatory Class X offender, a

recommendation of drug treatment, and a proviso that, "if eligible under [statute], the defendant is awarded an additional 148 days in program sentencing credit."

¶ 26 Defendant filed a post-sentencing motion challenging his sentence as excessive and disproportionate. The court denied the motion following argument of the parties.

¶ 27 On appeal, defendant first contends that that the evidence was insufficient to convict him of delivery of a controlled substance because he presented evidence that the police induced him to deliver a controlled substance while the State did not present sufficient evidence that he was predisposed to do so, so that the evidence was insufficient to disprove entrapment.

¶ 28 Section 7-12 of the Criminal Code (720 ILCS 5/1-1 *et seq*. (West 2012)) governs the affirmative defense (720 ILCS 5/7-14 (West 2012)) of entrapment:

> "A person is not guilty of an offense if his or her conduct is incited or induced by a public officer or employee, or agent of either, for the purpose of obtaining evidence for the prosecution of that person. However, this Section is inapplicable if the person was predisposed to commit the offense and the public officer or employee, or agent of either, merely affords to that person the opportunity or facility for committing an offense." 720 ILCS 5/7-12 (West 2012).

A defendant invoking entrapment, which as an affirmative defense is an admission to committing the offense, must present evidence that (1) the State induced or incited him to commit the offense and (2) he lacked the predisposition to commit the offense. *People v. Anderson*, 2013 IL App (2d) 111183, ¶¶ 60, 62, citing *People v. Placek*, 184 Ill. 2d 370, 380-81 (1998). Entrapment does not exist merely because an agent of the State initiates a relationship leading to the offense. *People v. Ramirez*, 2012 IL App (1st) 093504, ¶ 31.

¶ 29 If a defendant presents some evidence to support an entrapment defense, the burden shifts to the State to rebut that defense beyond a reasonable doubt. *Anderson*, ¶ 60, citing *Placek*, 184

Ill. 2d at 381. The State establishes predisposition with proof that the defendant was willing and able to commit the offense without persuasion before his initial exposure to an agent of the State. *Id.*, ¶ 61. Factors considered in determining whether a defendant was predisposed to commit an offense include the defendant's character, prior criminal record, and whether he had a history of criminal activity for profit; whether the State initiated the alleged criminal activity; whether the defendant showed hesitation in committing the crime that was overcome only by repeated persuasion; and the type of inducement or persuasion applied by the State, or the way in which it was applied. *Ramirez*, ¶ 38. In a drug case, the factors include the defendant's initial reluctance or willingness to commit the crime, familiarity with drugs, ready access to a supply of drugs, willingness to accommodate the needs of drug users, willingness to profit from the offense, current or prior drug use, and participation in cutting or testing the drugs. *Anderson*, ¶ 61.

¶ 30 On a claim of insufficiency of the evidence, we must determine whether, taking the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *In re Q.P.*, 2015 IL 118569, ¶ 24. It is the responsibility of the trier of fact to weigh, resolve conflicts in, and draw reasonable inferences from the testimony and other evidence, and it is better equipped than this court to do so as it heard the evidence. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 59. We do not retry the defendant – we do not substitute our judgment for that of the trier of fact on the weight of the evidence or credibility of witnesses – and we accept all reasonable inferences from the record in favor of the State. *Q.P.*, ¶ 24. The trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances; instead, it is sufficient if all the evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *Jonathon C.B.*, ¶ 60. The trier of fact is not required to disregard inferences that flow normally from the evidence, nor to seek all possible explanations consistent with innocence and elevate them to

reasonable doubt, nor to find a witness was not credible merely because the defendant says so. *Id*. A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that a reasonable doubt of the defendant's guilt remains. *Q.P.*, ¶ 24.

¶ 31 Here, taking the evidence in the light most favorable to the State as we must, we find that the State proved defendant guilty of delivery of a controlled substance over his claim of entrapment. The trial court found that defendant had introduced some evidence of inducement and instructed the jury on entrapment. While the State argues that initiating a relationship that leads to the offense is not inducement, Officer Pierson did not merely strike up a conversation with defendant but broached the idea of buying drugs when he asked defendant if he was "straight" – that is, if he was selling drugs – and then responded to defendant's question of what he was looking for (not an inherently drug-related question) with "I do both C and D," cocaine and heroin. Officer Pierson admitted that he approached defendant seeking to buy drugs without having seem him engage in suspected drug transactions; while he testified to focusing on defendant due to information from a surveillance officer, no evidence was presented as to what any other officer saw defendant do before Officer Pierson approached him. As to lack of predisposition, defendant testified that he had no intention to engage in a drug transaction until Officer Pierson repeatedly and annoyingly asked for his help in buying drugs. While the finder of fact was not obligated to find this testimony credible, the trial court found that defendant met his threshold to shift the burden of proof on entrapment to the State.

¶ 32 That said, we find that the State met its burden of proving defendant's predisposition to commit the instant offense. First and foremost, the jury was free to give more weight to Officer Pierson's testimony than defendant's account. By Officer Pierson's account, he initiated the drug transaction but defendant hesitated only briefly – including asking if Officer Pierson was a police officer, tending to show that any reluctance was practical rather than moral – before undertaking

to procure drugs for Officer Pierson. Considering the factors particular to drug cases, defendant's initial reluctance was brief and easily overcome by Officer Pierson's assurance that he was not an officer, while defendant's familiarity with drug terminology (such as knowing that "C and D" referred to cocaine and heroin), willingness to accommodate the needs of a putative drug user, and ready access to a supply of drugs were all shown in the trial evidence. Defendant's perfunctory reluctance stands in stark contrast to the depth of his willingness to accommodate Officer Pierson's purported need for drugs; he went beyond merely facilitating a purchase by referring Officer Pierson to a seller to actually serving as the seller, collecting Officer Pierson's payment and delivering cocaine to him. The drugs here were pre-packaged and did not need to be cut, nor were they tested in a small retail transaction, so we consider that factor irrelevant. The factors absent from the State's evidence were thus defendant's current or prior drug use – no trial evidence was offered on that point by either party – and that defendant had no immediate profit from the offense insofar as Officer Pierson gave him two pre-recorded $10 bills that he gave to codefendant in exchange for the cocaine. Considering the trial evidence in light of the factors and in the light most favorable to the State, we conclude that a reasonable finder of fact could find defendant predisposed to engage in the offense of delivery of a controlled substance and thus convict him of said offense.

¶ 33 Defendant also contends that his 12-year prison sentence is excessive.

¶ 34 Delivery of less than one gram of cocaine is a Class 2 felony. 720 ILCS 570/401(d) (West 2012). A defendant over 21 years old convicted of a Class 1 or Class 2 felony after two separate and sequential convictions for felonies of Class 2 or greater must be sentenced as a Class X offender, with a prison term of 6 to 30 years. 730 ILCS 5/5-4.5-25(a), -95(b) (West 2012). A sentence within statutory limits is reviewed on an abuse of discretion standard, and we may alter a sentence only when it varies greatly from the spirit and purpose of the law or is

manifestly disproportionate to the nature of the offense. *People v. Snyder*, 2011 IL 111382, ¶ 36. So long as the trial court does not consider incompetent evidence or improper aggravating factors, or ignore pertinent mitigating factors, it has wide latitude in sentencing a defendant to any term within the applicable range. *People v. Jones*, 2014 IL App (1st) 120927, ¶ 56. This broad discretion means that we cannot substitute our judgment simply because we may weigh the sentencing factors differently. *Id.*, citing *People v. Alexander*, 239 Ill. 2d 205, 212-13 (2010).

¶ 35 In imposing a sentence, the trial court must balance the relevant factors, including the nature of the offense, the protection of the public, and the defendant's rehabilitative potential. *Id.*, ¶ 55, citing *Alexander*, 239 Ill. 2d at 213. The trial court has a superior opportunity to evaluate and weigh a defendant's credibility, demeanor, character, mental capacity, social environment, and habits. *Snyder*, ¶ 36. The court does not need to expressly outline its reasoning for sentencing, and we presume that it considered all mitigating factors on the record absent some affirmative indication to the contrary other than the sentence itself. *Jones*, ¶ 55. Because the most important sentencing factor is the seriousness of the offense, the court is not required to give greater weight to mitigating factors than to the severity of the offense, nor does the presence of mitigating factors either require a minimum sentence or preclude a maximum sentence. *Id.*, citing *Alexander*, 239 Ill. 2d at 214. Similarly, the court is not required to view a defendant's troubled childhood, history of mental health issues, or substance abuse problems as inherently mitigating. *People v. Holman*, 2014 IL App (3d) 120905, ¶ 75, citing *People v. Ballard*, 206 Ill. 2d 151, 189-90 (2002).

¶ 36 Here, defendant does not challenge that he was subject to mandatory class X sentencing, with a minimum sentence of six years' imprisonment, due to his prior felony convictions. He argues that he sold less than a gram of cocaine, a non-violent offense that was not preceded or followed by any other drug sales. He argues that his rehabilitative potential is shown by his

"history of non-violent, non-drug convictions," efforts at overcoming drug addiction, difficult childhood with a deceased father, university education, and support of his fiancée and sister. However, his criminal record is not completely non-violent in that he was convicted of attempted aggravated robbery, and its extent – over a dozen convictions from 1989 through 2011, with six prison terms – tends to belie his rehabilitative potential. Moreover, the trial evidence, PSI, and sentencing evidence disclosed the claimed mitigating factors, and trial counsel expressly argued many of them at sentencing, so the trial court was free to weigh them appropriately. Notably, the court weighed the sentencing factors differently than both defendant and the State, who sought prison terms of the minimum 6 years and 15 years respectively, and the court recommended drug treatment. We cannot find under these circumstances that the court abused its sound discretion by sentencing defendant to 12 years' imprisonment, at the lower end of the applicable range.

¶ 37 Lastly, defendant contends that his mittimus should be corrected, and though the State does not agree, we do. Omitting the day of sentencing as being the first day of the sentence rather than pre-sentencing detention (*People v. Williams*, 239 Ill. 2d 503, 510 (2011)), 299 days passed in 2013 between his arrest on January 27 and sentencing on November 22. The mittimus, which reflects 298 days of credit, shall be corrected accordingly.

¶ 38 Accordingly, pursuant to Supreme Court Rule 615(b)(2) (eff. Aug. 27, 1999), we direct the clerk of the circuit court to correct the mittimus to reflect 299, rather than 298, days of pre-sentencing detention credit. The judgment of the circuit court is otherwise affirmed.

¶ 39 Affirmed; mittimus corrected.