2019 IL App (5th) 160413-U

NO. 5-16-0413

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Jackson County.
	)	
v.	)	No. 14-CF-261
	)	
ROBERT A. PLEASANT,	)	Honorable
	)	Kimberly L. Dahlen,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Presiding Justice Overstreet and Justice Welch concurred in the judgment.

ORDER

¶ 1 *Held*: The judgment of conviction is affirmed, and appointed appellate counsel is granted leave to withdraw, where the circuit court did not abuse its discretion in denying the defendant's motion to withdraw guilty pleas or in sentencing the defendant, and any argument to the contrary would lack merit.

¶ 2 The defendant, Robert A. Pleasant, appeals from a judgment of conviction. The defendant pleaded guilty to two sex offenses, pursuant to a partially negotiated plea agreement. After a hearing in aggravation and mitigation, the court sentenced him to imprisonment for the maximum terms. The Office of the State Appellate Defender (OSAD) represents the defendant on appeal but has filed a motion to withdraw as

counsel, along with a supporting brief, pursuant to *Anders v. California*, 386 U.S. 738 (1967). The defendant has filed a response to OSAD's motion. This court has examined OSAD's motion and brief, the defendant's response, and the entire record on appeal. For the reasons that follow, this court grants OSAD leave to withdraw as counsel and affirms the judgment of conviction.

¶ 3 BACKGROUND

¶ 4 *Pleas of Guilty*

¶ 5 In July 2014, the State filed a 10-count amended information against the defendant. Counts 1 and 2 charged the defendant with predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2014)), a Class X felony. Counts 3 and 4 charged him with criminal sexual assault (*id.* § 11-1.20(a)(3)), a Class 1 felony. Counts 5 through 10 charged him with child pornography (*id.* § 11-20.1(a)(5), (6)), a Class 1 felony.

¶ 6 On November 17, 2015, the defendant, his appointed attorney, and an assistant state's attorney appeared before the circuit court. The court noted that a motion to suppress evidence was before the court, but defense counsel informed the court that a plea agreement had been reached, and that the defendant would be entering an "open" plea to counts 1 and 3 of the amended information. The assistant state's attorney added that all of the other counts of the amended information would be dismissed.

¶ 7 In response to queries from the court, the defendant indicated that he was 37 years old; he had had 12 years of education; he could read, write, and understand the English language; he did not have any type of disability, whether mental or physical; he was

neither taking nor supposed to be taking any type of medication; and he was not under the influence of any substance. In response to further queries from the court, the defendant indicated that he had had ample opportunity to discuss the plea agreement with his attorney, and that he was satisfied with his attorney's representation.

¶ 8 The court admonished the defendant as to the nature of the charges in counts 1 and 3 and the possible penalties. Specifically, the court stated that count 1 charged the defendant with predatory criminal sexual assault of a child and alleged that the defendant, between the years 2008 and 2010, and while he was 17 years of age or older, placed his penis in the vagina of H.P., who was under the age of 13 years at the time. The court noted that the offense charged in count 1 was a Class X felony punishable by imprisonment for a term of 6 to 60 years. Continuing with its admonishment of the defendant, the court stated that count 3 charged the defendant with criminal sexual assault and alleged that the defendant, between the years 2008 and 2014, placed his penis in the vagina of S.P., who was the defendant's daughter and who was under the age of 18 at the time. The court noted that the offense charged in count 3 was a Class 1 felony punishable by imprisonment for a term of 4 to 15 years. The court stated that imprisonment was mandatory for the offenses, that the defendant would be required to serve 85% of his prison time, that the prison sentences would be served consecutively, and that they would be followed by terms of mandatory supervised release, which could last for the remainder of the defendant's lifetime. The defendant indicated his understanding of all these admonishments.

¶ 9 When the court asked the defendant how he wished to plead, he answered, "I plead guilty." He also pleaded guilty to counts 1 and 3 individually. The court then admonished the defendant about his right to a trial by jury or by the court alone, the State's burden of proving guilt beyond a reasonable doubt, his right to cross-examine the State's witnesses, his right to present witnesses and a defense, and his right to remain silent. The court added that a plea of guilty would involve "giving up" all of those rights. The defendant indicated his understanding of his right to trial, his rights at trial, and the effects of pleading guilty. In answer to the court's questions, the defendant indicated that nobody was forcing or threatening him to plead guilty, and nobody had promised him anything outside the terms of the plea agreement.

¶ 10 The court showed the defendant a written plea of guilty, and the defendant indicated that he had read it, his attorney had explained it, he understood it, and he had signed it without being forced or threatened. The written plea included these words: "I understand that by pleading guilty, I am giving up my right to trial, including my right to a jury trial. I am also giving up my right to confront witnesses and to subpoena witnesses on my behalf. I understand the nature of the offense and the possible penalties. I understand that if I plead guilty, the Court may sentence me up to the maximum penalty provided for this offense without hearing witnesses or having a trial."

¶ 11 The State presented a factual basis for the defendant's pleas. According to the State, H.P., who was 14 years old at the time of the guilty-plea hearing, stated during forensic interviews conducted in mid-2014 that the defendant repeatedly placed his penis in her vagina, and performed other sex acts upon her, between the years 2008 and 2010.

Continuing, the State represented that S.P., who was the defendant's daughter, and who was 18 years old at the time of the guilty-plea hearing, told investigators in mid-2014 that the defendant repeatedly placed his penis in her vagina, and performed other sex acts upon her, starting when she was 12 years old and ending when she was 16. Sometime after H.P. and S.P.'s statements, police searched a safe at the defendant's father's house and discovered, *inter alia*, photographs depicting the defendant engaged in sexual acts with S.P. In response to a query from the court, both the defendant and his attorney indicated that the State's evidence, which had been turned over during discovery, was sufficient to prove, beyond a reasonable doubt, the elements of predatory criminal sexual assault of a child and criminal sexual assault.

¶ 12 The court accepted the defendant's pleas of guilty to counts 1 and 3, finding that the pleas were knowing and voluntary. The court ordered the preparation of a presentence investigation report and scheduled a sentencing hearing.

¶ 13 This court notes that counts 1 and 2 of the 10-count amended information charged the defendant with predatory criminal sexual assault of a child, and that the two counts involved two different child victims—H.P. in count 1, S.P. in count 2. Conviction on two counts of predatory criminal sexual assault of a child, involving two different child victims, results in a mandatory sentence of natural life imprisonment. See 720 ILCS 5/11-1.40(b)(1.2) (West 2014). If the defendant had not pleaded guilty pursuant to the plea agreement, if he had persisted in his plea of not guilty and had proceeded to trial, and if he had been found guilty of counts 1 and 2, he would have been subject to

mandatory natural life imprisonment. By pleading guilty pursuant to the agreement, which included the dismissal of count 2, the defendant avoided a mandatory life sentence.

¶ 14 On November 23, 2015, the court held a hearing on its own motion, with the defendant, plea counsel, and an assistant state's attorney present. Addressing the defendant, the court stated that during the guilty-plea hearing a few days earlier, it had neglected to admonish him that he would be required to register as a sex offender for the remainder of his life. The court asked the defendant whether his awareness of the registration requirement caused him to change his mind about pleading guilty, and the defendant answered, "No." Plea counsel informed the judge that prior to the guilty-plea hearing, he had informed the defendant of the sex offender registration requirement.

¶ 15 *Sentencing*

¶ 16 On January 14, 2016, the court called the cause for a sentencing hearing. The court asked the defendant whether he had had ample opportunity to prepare for sentencing and whether he remained satisfied with his attorney's representation, and the defendant answered both questions in the affirmative. The State called five witnesses. The most pertinent testimony is summarized *infra*.

¶ 17 Armanda Gordon was the mother of H.P. Gordon testified that she and the defendant were in a "relationship" from 2003 or 2004 until 2010, though they never married. When Gordon and the defendant began their relationship, H.P. was "almost three [years old]." At first, the relationship was good, and Gordon and H.P. moved into the defendant's residence in Gorham, Illinois, in 2004 or 2005. About six months after Gordon and H.P. moved in with the defendant, the defendant started to become abusive

and violent toward Gordon, and the abuse and violence gradually worsened. At one point, the defendant broke Gordon's jaw. He began to tie her up and beat her on a regular basis and to choke her with a belt almost daily. He prevented her from seeing her relatives and friends.

¶ 18 Through beatings and threats, the defendant, on multiple occasions, forced a "weak" and fearful Gordon to engage in sexual conduct, or simulations thereof, with H.P. and with the defendant's daughter, S.P., who did not reside with the defendant but visited him regularly. Whenever Gordon participated in the sexual abuse of H.P. or S.P., the defendant took photographs, or told Gordon to do so. The sexual abuse of H.P. and S.P. began when the former was four years old and the latter was eight. Over a period of years, Gordon observed the defendant engage in sexual intercourse with S.P. on "10 to 15 [occasions], possibly more." Over that same period of years, Gordon observed the defendant "attempt" to insert his penis into H.P.'s vagina "around 20, 30" times, and observed him place his finger in H.P.'s vagina. In 2009, the defendant, Gordon, and H.P. moved to a residence in Murphysboro. Sometime after the move to Murphysboro, S.P. began to resist her father's sexual activity, and the defendant's sexual abuse of S.P. and H.P. became less frequent. Gordon finally left the defendant, or "escaped" from him, on June 26, 2010, taking H.P., who was then nine years old, with her. The defendant's ex-wife, Elizabeth Smith, assisted by driving Gordon and H.P. to a train station.

¶ 19 Gordon further testified that in 2014, she and H.P. were living in Michigan. For the first time, Gordon contacted authorities and informed them of the sexual abuse that the defendant had perpetrated upon H.P. during the years that the three of them lived

together in Illinois. At first, Gordon did not inform the authorities of her participation in the sexual abuse, but eventually she divulged everything. At the time of the defendant's sentencing hearing, Gordon was incarcerated in the Jackson County Jail, awaiting sentencing on one count of criminal sexual assault against S.P., a crime to which she had pleaded guilty.

¶ 20 S.P. testified that she was 19 years old, having been born on July 7, 1996. She lived with her mother, who was Elizabeth Smith, her stepfather, and her brother, who was B.P. Pleasant, and she attended college. S.P. testified that she was "probably seven or eight [years old]" when the defendant, her father, started to abuse her sexually. S.P. did not reside with the defendant, but he had visitation rights, and she spent two weekends per month at his residence. The sexual abuse was perpetrated during essentially all of those weekends. S.P. estimated that the defendant had vaginal intercourse with her more than 200 times, and placed his fingers in her vagina more than 50 times. Sometimes, S.P. "tried to say no" to the defendant, but he would react by hitting her, yelling at her, and "run[ning] through the house and break[ing] things." At that point, due to fear that the defendant would hurt others in the house or the pet birds, S.P. would submit to the sexual abuse. On occasion, the defendant sexually abused both her and H.P. at the same time. A frequent accompaniment to the overtly sexual abuse of S.P. was the "no breathing game," which involved the defendant's covering S.P.'s mouth and nose with his hand, thus preventing her from breathing and causing her to panic.

¶ 21 According to S.P., the defendant oftentimes gave her alcohol and various pills, especially as she grew older. S.P. wanted the alcohol and the pills because they allowed

her to "block out" the abuse. She hoped that the substances would kill her "because then it would be over."

¶ 22 Sometimes, the defendant forced a frightened and "unwilling" Armanda Gordon to participate in the sexual abuse. At some point, a woman named Bethany joined the defendant in abusing S.P. Unlike Armanda Gordon, Bethany seemed to enjoy perpetrating the abuse, just as the defendant seemed to enjoy it.

¶ 23 At the sentencing hearing, S.P. identified various photographs of herself at the ages of 12, 13, or 14 years. These photos were taken either by the defendant or by Armanda Gordon at the direction of the defendant. Several of the photographs showed S.P.'s exposed breasts or genitalia. She testified that a few of the photos depicted both herself and the defendant, and one of the photos showed the two of them engaged in sexual intercourse.

¶ 24 When S.P. was 16, she told her mother, Elizabeth Smith, that the defendant was verbally abusive toward her, and she stopped going to the defendant's house. Only at that point did the defendant's sexual abuse of S.P. stop. According to S.P., she continued to experience severe depression, panic attacks, sudden anger, and great difficulty in trusting people and in forming relationships, all as a result of the sexual abuse perpetrated by the defendant.

¶ 25 H.P. testified that she was 14 years old, having been born on February 8, 2001. H.P. lived in Michigan, where she had lived since June 2010. She was aware that her mother, Armanda Gordon, was incarcerated in the county jail. H.P. testified that she and her mother resided with the defendant for seven years, ending in 2010. The defendant

began sexually abusing H.P. before she started preschool, and he continued to abuse her, on a consistent basis, until H.P. and her mother finally left the defendant in 2010, when H.P. was nine years old. According to H.P., the defendant "basically molested me, raped me, more than one time, more than 10 times, more than a hundred times. He did it so often that it's too many times to count." The abuse was physically painful, and sometimes resulted in bleeding or a burning sensation. On occasion, the defendant sexually abused H.P. and S.P. together, relying on threats in order to force their compliance. "He would say that if we didn't do as he told, that he would hurt the ones that we loved," H.P. explained. "So we had to do it or else it would be bad on our part and bad for the people that we loved." The defendant also "physically abused" H.P.'s mother, which also "affected" H.P.

¶ 26 H.P. further testified that during the years of sexual abuse perpetrated by the defendant, she never thought of informing anyone about it. "I didn't think it was wrong because that's all I knew," she explained. After she left the defendant's residence for good, H.P. remained silent about the abuse. "I thought that since I wasn't there it would no longer affect me, and so I had no reason to say anything." By 2014, though, H.P. "started having problems in school with me lashing out at people," and she realized that the sexual abuse was continuing to affect her. When H.P.'s mother's best friend asked H.P. about her school troubles, H.P. told her about the abuse. It was the first time she ever informed anyone about it. At the time of the sentencing hearing, H.P. continued to feel effects of the sexual abuse, including "flashbacks" and great difficulty in trusting anyone.

¶ 27 Elizabeth Smith testified that she was married to the defendant from 1996 to 2002, and he was the father of her two children, S.P. and B.P. The defendant physically abused Smith, and the abuse worsened as time passed. During the last six months of the marriage, he repeatedly raped her. S.P. and B.P. were present when the defendant placed a bag over Smith's head; she "passed out" as the two children screamed. Upon regaining consciousness, Smith took the children and left the defendant. Shortly afterward, she filed for divorce. Since the defendant had never abused S.P. or B.P., Smith did not object to every-other-weekend visitation for the defendant. Smith did not learn until May 14, 2014, that the defendant had been sexually abusing S.P. for years. Three days later, son B.P. informed Smith that he had been beaten, had been plied with alcohol and drugs, and had been sexually abused. Reading from her written victim-impact statement, Smith described the fear, insecurity, emotional pain, and panic attacks experienced by S.P. and B.P. "The nightmares and the screams cannot be imagined."

¶ 28 The defendant called one witness at his sentencing hearing, Lucy McIntyre, age 59. She testified that she had known the defendant for approximately 20 years. He had always treated her and her family well. He was always helpful to her, even when it required sacrifice on his part, and he cheered her up when she was having a bad day. Prior to the defendant's criminal case, she had no indication that the defendant was sexually abusing anyone. She felt sure that the defendant had good qualities and that appropriate therapy and treatment would rehabilitate him and make him a productive member of society.

¶ 29 The State recommended the maximum prison sentences of 60 years for count 1 and 15 years for count 3. Defense counsel recommended a sentence of 20 to 25 years on count 1. In a statement in allocution, the defendant apologized to his family for his "actions" and expressed remorse. "I really regret this ever happening," he stated. "I regret hurting my own kids and it's—it was hard for me to listen to my daughter and [H.P.] and see how much I hurt them." He alluded to his being abused during his own childhood and expressed the hope that he could receive counseling in DOC and that his children, some day, would be able to forgive him.

¶ 30 The court sentenced the defendant to the maximum prison terms, *i.e.*, 60 years for count 1, predatory criminal sexual assault of a child, and 15 years for count 3, criminal sexual assault, with the prison terms to run consecutively, plus MSR and mandatory fines. The court mentioned the defendant's traffic-only criminal record and his expressed remorse as factors in mitigation. As factors in aggravation, the court mentioned the frequent and long-term nature of the sexual abuse perpetrated by the defendant upon H.P. and S.P., the defendant's "lack of moral character" and his abuse of a position of trust in regard to H.P. and S.P., and the serious emotional and physical harm to H.P. and S.P.

¶ 31 *Postsentencing Proceedings*

¶ 32 On February 5, 2016, the defendant filed, by plea counsel, a motion to withdraw plea of guilty and to vacate sentence. In regard to the plea, the defendant alleged that his attorney had advised him to accept the plea offer "notwithstanding a pending motion to suppress evidence," and further alleged that he would have chosen to proceed to trial if the suppression motion had been granted. Not long after this motion was filed, the circuit

court granted plea counsel leave to withdraw as the defendant's attorney. Eventually, the court appointed substitute counsel for the defendant, who represented him until the completion of postplea, postsentencing proceedings.

¶ 33 On July 18, 2016, the defendant filed, through substitute counsel, a motion to withdraw guilty plea and a motion to reconsider sentence. In the motion to withdraw guilty plea, the defendant essentially averred that his guilty pleas were involuntary due to ineffective assistance by plea counsel. More specifically, the defendant alleged that (1) plea counsel told him that counsel and the State had "worked out" his sentence, and counsel "promised" him that if he pleaded guilty, the court would not impose the "maximum sentence," but would sentence him to only 20 to 25 years in prison; (2) plea counsel instructed the defendant to "answer yes" to all of the court's questions during the sentencing hearing; and (3) he did not understand the questions that the court asked him during the sentencing hearing, but he answered all questions in the affirmative, because plea counsel had instructed him to do so. In the motion to reconsider sentence, the defendant noted that he did not have a significant criminal history prior to the instant case, and he alleged that the sentence "was not fair or reasonable under the circumstances." Along with the two motions, substitute counsel filed a certificate of compliance with Illinois Supreme Court Rule 604(d) (eff. Mar. 8, 2016). On July 26, 2016, the defendant filed an affidavit wherein he attested to the factual allegations presented in his motion to withdraw guilty plea.

¶ 34 On September 9, 2016, the court held a hearing on the defendant's motions to withdraw guilty pleas and to reconsider sentence. Substitute counsel represented the

defendant at that hearing. At the start of the hearing, substitute counsel asked the court to consider the defendant's affidavit of July 26, 2016. Substitute counsel informed the court that the State planned to call the defendant's plea attorney as a witness, that he intended to cross-examine the plea attorney, and that he subsequently would call the defendant to testify if the defendant's testimony was necessary at that time.

¶ 35 The State called the defendant's plea attorney as its sole witness. Plea counsel testified that he had been handling criminal cases, sometimes as prosecutor and sometimes as defense counsel, since 1988. According to plea counsel, he had explained to the defendant that if a trial were held and if the defendant were found guilty of all the counts charged in the information, a sentence of natural life without parole would be imposed, but if the defendant accepted the plea offer, and pleaded guilty to two of those counts, a sentence of natural life without parole could not be imposed. Plea counsel denied ever assuring the defendant that if he pleaded guilty pursuant to the plea offer, he would not receive the maximum sentence available. He denied ever telling the defendant that he and the State had reached an agreement that the defendant would not be sentenced to the maximum on the two counts to which he would plead guilty. Plea counsel informed the defendant of the sentencing range and told him that he would try to persuade the court to impose a sentence in the middle of that range. Counsel denied telling the defendant that he would be sentenced to approximately 20 to 25 years. Counsel also denied telling the defendant, or any criminal client, to answer "yes" to all of a judge's questions regardless of whether he understood the questions.

¶ 36 Furthermore, plea counsel never found any reason to think that the defendant did not understand him or the proceedings in his case. During discussions, the defendant always gave rational answers to plea counsel's questions, and the defendant asked germane questions. Plea counsel's impression was that the defendant was "an intelligent, articulate, rational individual."

¶ 37 The defendant did not testify at the hearing on his postplea, postsentencing motions, and he did not present witnesses. The court denied both the motion to withdraw guilty plea and the motion to reconsider sentence. The court commented that it had examined the transcript of the guilty-plea hearing and had found that the plea agreement's terms were clearly stated and did not include an agreement as to sentencing.

¶ 38 On September 19, 2016, the defendant filed a notice of appeal from the orders denying his motions to withdraw guilty plea and to reconsider sentence, thus perfecting the instant appeal. The circuit court appointed OSAD to represent the defendant.

¶ 39 ANALYSIS

¶ 40 As previously mentioned, OSAD has filed an *Anders* motion to withdraw as the defendant's attorney in this appeal. In the brief accompanying the motion, OSAD discusses two potential issues in this appeal, *viz.*, whether the circuit court abused its discretion in denying the defendant's motion to withdraw his guilty pleas, and whether the court abused its discretion in sentencing the defendant. This court agrees with OSAD that neither potential issue has any merit whatsoever.

¶ 41 As to the first of the two potential issues, *i.e.*, whether the circuit court abused its discretion in denying the defendant's motion to withdraw his guilty pleas, this court notes

that OSAD's framing of the issue includes an accurate statement of the standard of review. The granting or denying of a defendant's motion to withdraw a guilty plea is a matter that "rests in the sound discretion of the circuit court and, as such, is reviewed for an abuse of discretion." *People v. Hughes*, 2012 IL 112817, ¶ 32.

¶ 42 A plea of guilty results in the waiver of several constitutional rights, and such a waiver must be voluntary and knowing. If a guilty plea is not voluntary and knowing, it has been obtained in violation of the due process of law and therefore is void. *People v. Williams*, 188 Ill. 2d 365, 370 (1999). Illinois Supreme Court Rule 402 (eff. July 1, 2012), with its list of admonitions that the circuit court must give to a defendant who has expressed a desire to plead guilty, was promulgated in order to ensure that every guilty plea in Illinois is voluntary and knowing. See, *e.g.*, *People v. Krantz*, 58 Ill. 2d 187, 194-95 (1974). By substantially complying with that rule, a circuit court ensures a voluntary and knowing plea. *Id.* at 192.

¶ 43 A defendant does not have an absolute right to withdraw a guilty plea. Where a defendant alleges that his guilty plea was not voluntary or knowing, and he moves to withdraw the guilty plea on that basis, he bears the burden of demonstrating to the circuit court the necessity of allowing him to withdraw it. *People v. Davis*, 145 Ill. 2d 240, 244 (1991). Leave to withdraw a guilty plea will be granted only as required to correct a manifest injustice. *People v. Hillenbrand*, 121 Ill. 2d 537, 545 (1988). That is, leave should be granted where (1) the plea was entered on a misapprehension of the facts or the law, (2) there is doubt as to the guilt of the accused, (3) the accused has a meritorious defense, or (4) the ends of justice will be better served by submitting the case to a jury.

Davis, 145 Ill. 2d at 244. Where a defendant alleges a misapprehension of the facts or the law, he must present substantial objective proof that his mistaken impressions were reasonably justified; a defendant's subjective impressions are insufficient grounds on which to withdraw a guilty plea. *People v. Hale*, 82 Ill. 2d 172, 176 (1980).

¶ 44 As noted *supra*, the defendant, in his motion to withdraw his guilty pleas, alleged that (1) plea counsel "promised" the defendant that if he pleaded guilty, the court would not impose the "maximum sentence," but would sentence him to only 20 to 25 years in prison; (2) plea counsel instructed the defendant to "answer yes" to all of the court's questions during the sentencing hearing; and (3) he did not understand the questions that the court asked him during the sentencing hearing, but he answered all questions in the affirmative, as plea counsel had instructed him to do. All of these allegations relate to mistaken impressions about the consequences of pleading guilty pursuant to the plea agreement, mistaken impressions that the defendant allegedly harbored as a result of what his plea attorney allegedly told him prior to the guilty-plea hearing.

¶ 45 The report of proceedings shows that at the defendant's guilty-plea hearing, the circuit court substantially complied with Rule 402, admonishing the defendant as to the nature of the crimes to which he was pleading guilty, the possible penalties for those crimes, and the rights that he would waive by pleading guilty. The court made clear that the parties did not have any agreement as to any aspect of sentencing, and there is no good reason to think that the defendant failed to understand that point. At the hearing on the motion to withdraw the guilty pleas, the defendant failed to present any substantial objective proof that his alleged mistaken impressions were reasonably justified. This

assessment is easy to make, for the defendant neither testified nor presented any other evidence at the motion hearing, instead relying on his previously-filed affidavit, which simply repeated the brief allegations in the motion to withdraw the pleas. Meanwhile, plea counsel, who did testify at the motion hearing, specifically denied assuring the defendant that he would not be sentenced to the maximum prison terms or that he would be sentenced to 20 to 25 years, and specifically denied instructing the defendant to answer all of the judge's questions in the affirmative. Furthermore, plea counsel testified that during discussions with the defendant, he always found the defendant altogether rational and intelligent. This testimony belies the defendant's claim that he did not understand the questions that the court directed to him.

¶ 46 The circuit court's denial of the defendant's motion to withdraw his guilty pleas was not an abuse of discretion. The defendant plainly failed to establish that withdrawal of the guilty pleas was necessary to correct a manifest injustice.

¶ 47 The second potential issue identified by OSAD is whether the circuit court abused its discretion in sentencing the defendant. This potential issue also lacks merit.

¶ 48 A criminal defendant's sentence must strike a balance between the seriousness of the offense at issue and the defendant's potential for rehabilitation. Ill. Const. 1970, art. I, § 11. The circuit court is in the best position to determine an appropriate sentence. *People v. Fern*, 189 Ill. 2d 48, 53 (1999). Therefore, determining a sentence is within the sound discretion of the circuit court. *People v. Perruquet*, 68 Ill. 2d 149, 154 (1977). The seriousness of the offense is always a key factor when determining a sentence. See, *e.g.*, *People v. Kelley*, 2015 IL App (1st) 132782, ¶ 94. The circuit court must also weigh

the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). A sentence imposed by the circuit court is entitled to great deference; it will not be disturbed unless it represents an abuse of the circuit court's discretion. *Perruquet*, 68 Ill. 2d at 154.

¶ 49 Here, the defendant's offenses, predatory criminal sexual assault of a child and criminal sexual assault, were ghastly. The defendant engaged in sexual intercourse with two young girls—the prepubescent daughter of the defendant's live-in girlfriend, and his own young daughter. These acts were far from rare or exceptional. For the defendant, sexually abusing those two girls became a deeply ingrained habit. At the defendant's sentencing hearing, H.P. testified that the defendant, over a period of years, ending when she was nine years old, raped her "too many times to count." S.P. estimated that the defendant, her father, had vaginal intercourse with her more than 200 times and placed his fingers in her vagina more than 50 times, starting when she was 7 or 8 years old and ending when she was 16. In perpetrating his sexual abuse of the two girls, the defendant regularly relied on violence, threats, and drugs. Testimony at the sentencing hearing also revealed that the defendant routinely abused his live-in girlfriend, who was H.P.'s mother, and forced her to participate in the sexual abuse. The defendant's years-long abuse of H.P. and S.P. bespeaks a depraved moral character.

¶ 50 Given the seriousness of the offenses, and the frequency and duration of the defendant's abominable behavior, the sentences imposed by the circuit court are altogether reasonable and certainly do not represent an abuse of the court's discretion.

¶ 51 CONCLUSION

¶ 52 The record makes clear that the circuit court did not abuse its discretion when it denied the defendant's motion to withdraw his guilty pleas or when it sentenced the defendant. Any argument to the contrary would lack merit. Therefore, OSAD is granted leave to withdraw as the defendant's counsel on appeal, and the judgment of conviction is affirmed.

¶ 53 Motion granted; judgment affirmed.