

containing methamphetamine with the intent that methamphetamine be produced. A person found guilty of violating section 15(a)(1) is subject to sentencing as a Class 1 felon. 720 ILCS 646/15(a)(2)(A) (West 2008).

¶ 6 In November 2008, the trial court granted defendant's request to reduce bond so he could enter a residential drug-treatment facility. In December 2008, defendant reported he had successfully completed residential treatment. In January 2009, defendant appeared and indicated he was in compliance with treatment. In March 2009, defendant again reported he was in compliance with his treatment program.

¶ 7 Defendant admitted smoking methamphetamine on April 25, 2009. The court services department indicated defendant tested positive for methamphetamine and amphetamine. The matter was then continued several times. Defendant admitted smoking one foil of methamphetamine on or about July 10, 2009. His drug screen tested positive for methamphetamine. At the August 13, 2009, status hearing, defendant's probation officer indicated defendant had tested positive for methamphetamine. The trial court reinstated defendant's bond and ordered a new evaluation.

¶ 8 On September 1, 2009, defendant agreed to plead guilty in exchange for a two-year term of probation. Defendant would also be required to serve 180 days in jail and comply with any substance-abuse treatment. The trial court admonished defendant that he was eligible for an extended term of 4 to 30 years in prison based on his prior offenses. The court accepted defendant's guilty plea and sentenced him per the agreement.

¶ 9 In September 2009, defendant successfully completed residential treatment. In December 2009, the State filed a petition to revoke probation, alleging defendant committed the

offense of possession of methamphetamine. In March 2010, defendant admitted the violation.

¶ 10 In May 2010, the trial court conducted the resentencing hearing. According to the presentence report, defendant's criminal history included the following: (1) possession of a controlled substance (probation) (1979); (2) possession of cannabis (fine and costs) (1980); (3) manufacture/delivery of cannabis, unlawful use of weapons, and unlawful possession use of a weapon (three years in prison) (1980); (4) aggravated battery (14 days in jail) (1980); (5) possession of a controlled substance (probation) (1991); (6) possession of cannabis (fine) (1993); (7) transportation/carry alcoholic liquor/driver (fine) (1995); (8) aggravated battery (great bodily harm) (two years in prison) (1996); and (9) attempted murder/intent to kill/injury (18 years in prison) (1996).

¶ 11 Gary Carroll testified he was employed with the East Central Illinois Drug Task Force conducting narcotics investigations. He stated he checked pseudoephedrine purchase logs in Coles County and surrounding areas and found defendant purchased more than the legal limit in October and November 2009. At a December 2009 traffic stop of defendant's van, officers found items used in the production of methamphetamine, including hoses, gloves, chemicals, lithium batteries, coffee filters, and a two-quart plastic pitcher. Carroll stated he found 96 pseudoephedrine tablets and methamphetamine in the van. About that same time, the police department received a call that a woman admitted injecting methamphetamine with defendant at a hotel and there was an active lab in the room. Upon entering the room, Carroll smelled ether and observed a crock pot, both of which can be used in the production of methamphetamine. A further search of the room revealed pitchers containing 518 grams and 532 grams of liquid that field tested positive for methamphetamine. The room also contained chemicals, Coleman fuel,

and a coffee grinder containing pseudoephedrine pills. Defendant told Carroll he was "an experienced cook" of methamphetamine and "would never get anything less than 95 percent production" from the cooking process.

¶ 12 In his statement in allocution, defendant took "full responsibility" for his actions, claiming he had been an addict most of his life. He asked the trial court to consider him for the drug-court program or a short sentence along with the program.

¶ 13 The State argued several factors in aggravation were present. First, defendant's conduct threatened harm to others based on cooking methamphetamine in a hotel room and sharing the drug with others. The State also argued defendant has "a significant criminal history" and committed the offense while serving a period of probation. The State argued defendant is "a lifelong addict" and drug court would not change that fact. Moreover, defendant had shown no willingness to change his ways. The State recommended a sentence of 27 years in prison.

¶ 14 Defense counsel argued defendant was "producing methamphetamine to feed his own addictive habit" and not producing it for personal gain or profit. Counsel recommended a prison sentence on the low end of the sentencing range to be followed by participation in the drug-court program after his release.

¶ 15 The trial court noted much of defendant's "lengthy" criminal history was "related to an addiction issue." The court stated defendant was given several chances to control his addiction with different forms of treatment but to no avail. The court saw nothing in defendant's history to show a desire for change. The court found drug court "would be a waste of resources" and "too risky." The court resentenced defendant to 22 years in prison.

¶ 16 In June 2010, defendant filed a motion to reconsider sentence, arguing the trial court did not give adequate consideration to his potential for rehabilitation and the sentence was excessive. In September 2010, the court denied the motion. This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, defendant argues his extended-term 22-year sentence was excessive. We disagree.

¶ 19 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)).

¶ 20 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 reviewing court gives great deference to the trial court's sentencing decision 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." *People v. Evangelista*, 393 Ill. App. 3d 395, 398, 912 N.E.2d 1242, 1245 (2009). Thus, the court's decision as to the appropriate sentence will not be overturned on appeal "unless the trial court abused its discretion and the sentence was manifestly disproportionate to the nature of the case." *People v. Thrasher*, 383 Ill. App. 3d 363, 371, 890 N.E.2d 715, 722 (2008).

¶ 21 In the case *sub judice*, defendant pleaded guilty to the offense of participation in methamphetamine manufacturing, a Class 1 felony. 720 ILCS 646/15(a)(2)(A) (West 2008). The sentencing range for a Class 1 felony is between 4 and 15 years. 730 ILCS 5/5-8-1(a)(4) (West 2008). Because of defendant's prior criminal history, he was subject to extended-term sentencing. The sentencing range for an extended-term Class 1 felony is between 15 and 30 years. 730 ILCS 5/5-8-2(a)(2) (West 2008). As the trial court's 22-year sentence was within the relevant extended-term sentencing range, we will not disturb the sentence absent an abuse of discretion.

¶ 22 In arguing the sentence imposed by the trial court was excessive, defendant claims drug court was a viable option and he has shown a willingness to change his addictive habits. To "reduce the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction," the General Assembly authorized the creation of "specialized drug courts with the necessary flexibility to meet the drug problems in the State of Illinois." 730 ILCS 166/5 (West 2008). The drug-court program involves "an immediate and highly structured judicial intervention process for substance abuse treatment of eligible defendants that brings together substance abuse professionals, local social programs, and intensive judicial monitoring." 730 ILCS 166/10 (West 2008).

¶ 23 In this case, drug court was not an option for defendant. "A defendant may be admitted into a drug court program only upon the agreement of the prosecutor and the defendant and with the approval of the court." 730 ILCS 166/20(a) (West 2008). No evidence indicates the prosecutor was willing to agree to admit defendant into the program.

¶ 24 A defendant will also be excluded from the program if he does not demonstrate a

willingness to participate in a treatment program. 730 ILCS 166/20(b)(3) (West 2008).

Defendant admits he is an addict but claims he has shown a willingness to change. He points out he successfully completed a treatment program while on pretrial probation. He stated he remained in compliance with probation and continued his treatment until he tested positive for methamphetamine in April 2009. He claims almost six months of sobriety for a life-long addict is significant progress.

¶ 25 The evidence indicates defendant has had a long and significant history of criminal offenses. As he concedes, he is an addict. His most recent offenses of methamphetamine possession were committed while he was on probation. The evidence indicated he was an active cook of methamphetamine, and he endangered the public by manufacturing the drug in a hotel room. While defendant may have made some progress in fighting his addiction, they were short-term gains to be followed by yet more relapses. Defendant was given the opportunity to change his behavior but he continued to surround himself with friends and family who enabled his addiction and then took to manufacturing the drug himself. In believing drug court "would be a waste of resources" and "too risky," the trial court decided the revolving door must stop. We find no abuse of discretion in the court's sentence.

¶ 26 III. CONCLUSION

¶ 27 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.

¶ 28 Affirmed.