

No. 1-12-3291

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 18823
	)	
REGINALD LACEY,	)	The Honorable
	)	Thomas M. Davy,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE DELORT delivered the judgment of the court.  
Justices Hoffman and Connors concurred in the judgment.

**ORDER**

¶ 1 **Held:** Burglary conviction affirmed over defendant’s contentions that: (1) the evidence was insufficient to sustain a conviction, and (2) the sentence was an abuse of discretion.

¶ 2 Defendant Reginald Lacey was found guilty of burglary and sentenced as a Class X offender to 18 years’ imprisonment (730 ILCS 5/5-4.5-95(b) (eff. Jul. 1, 2009)) after a bench trial. On appeal, he contends that the evidence was insufficient to prove him guilty of burglary beyond a reasonable doubt, and that his sentence constitutes an abuse of discretion. He requests

this court to reverse his conviction for burglary, or, alternatively, to reduce his sentence or remand the case for resentencing.

¶ 3 The burglary in question occurred on April 29, 2011, at the Calvary Baptist Church in Chicago. At some point after 8 p.m., several areas of the church, including the pastor's second-floor office, were burglarized, and a television set was missing from the office. Fingerprints lifted from the pastor's desk led to defendant's arrest approximately six months after the incident.

¶ 4 At trial, Tommy Wright, the custodian and trustee of the church, testified that he was responsible for cleaning the offices in both the old and the new church buildings, including the pastor's office on the second floor of the new building. That office contained a desk with a glass top, chairs, bookshelves, and a flat screen television set on the north wall. Wright testified that he last cleaned the top of the desk with Windex and paper towels on Thursday, April 28, but later stated that he did so on Friday, April 29. Wright further testified that when he left the church at 8 p.m. on April 29, 2011, there were still people in the basement for a youth program, and he told the janitor to lock up.

¶ 5 Wright returned to the church the next morning, and encountered a minister and his family in the parking lot. He entered the old building from the south parking lot, deactivated the alarms, and saw "a lot of stuff" on the floor. Wright and Reverend Steel then inspected the property. There were no signs of forced entry in the old building, but they found sound equipment missing from the sound room, and frames torn out of the basement doors leading to the finance room. In the new building, the doors leading to the roof and the janitorial supplies room, and the locks to the pastor's and the superintendent's offices were also broken. Upon entering the pastor's office, Wright noticed that the television set was missing from the wall, and

there were prints all over the glass top of the desk. Wright recalled that the prints were not there when he washed the desk on Friday. In addition to the television set, a counting machine from the finance office, and some petty cash from the secretary's file cabinet were missing. Wright denied that he or anyone else in the church permitted anyone to remove any of these items from the building.

¶ 6 Police were notified, and an evidence technician, Chicago police officer Joseph Scumaci, processed the crime scene following the incident. In the pastor's second-floor office, Scumaci observed three fingerprints on the glass top of the desk, which he then dusted, photographed, lifted onto evidence tape, and submitted for processing.

¶ 7 Chicago police officer Officer Gerald Lau testified that he was assigned to the burglary at the church, and that he arrested defendant on October 29, 2011. Defendant was transported to the 7th District police station where he was processed and fingerprinted. The parties stipulated that proper fingerprinting procedures were used, and the prints lifted from the pastor's desk matched those of defendant.

¶ 8 Reverend James Ray Flint, Jr. testified that he was the pastor of the Calvary Baptist Church, that he was in his office earlier in the day on April 29, 2011, and that he locked his door when he left. He testified that he did not give anyone other than his custodian permission to enter his office and no one else was allowed to use his office for conferences. He further testified that he did not know defendant, had never seen him in the church or had a meeting with him, nor had he given him permission to enter his office. On cross-examination, Reverend Flint testified that he only brought individuals into his office for a scheduled appointment.

¶ 9 The trial court denied defendant's motion for a directed finding, and defendant testified in his own defense. He acknowledged his prior convictions for burglary, stealing a car and

possession of drugs to which he had pled guilty, but maintained that he was innocent of this particular offense. Defendant testified that he was released from prison on April 22, 2011, and went to the church located in his neighborhood around 11 a.m. on April 29, 2011 to seek help. He entered the new building and asked a woman who was coming out of the daycare where he could find someone to speak with, and she directed him upstairs to the business office. Defendant then walked up to the first door he saw open. A man in the office asked how he could help, and defendant then explained that he did not have any money, food or clothes. Defendant testified that the man in the office was dark, tall, bald-headed and older and did not look like the pastor. They conversed for 5 to 15 minutes, while defendant sat in a chair in front of the desk. At the end of the conversation, defendant and the man stood at the side of the desk and the man put a hand over defendant's head and prayed over him. Defendant did not recall whether or not he touched the desk, but acknowledged the possibility, while denying that he touched any of the items on the desk. He then left the church and never returned, and stated that he would not burglarize a church because it was not moral. Defendant acknowledged that he did not actually live at the address he was paroled to, and was staying instead with his sister in Section 8 housing although he knew that he was not supposed to do so.

¶ 10 Following argument, the court found defendant guilty of burglary of a place of worship, noting that defendant's fingerprints were imprinted on the pastor's desk as a result of being in the building and committing a burglary. The court noted that defendant's credibility was impeached by his background, and that his explanation for his presence in the pastor's office was not credible given Reverend Flint's testimony that he had never seen defendant, did not authorize anyone except Wright to enter the office, did not allow others to hold conferences in the office, and locked his door when he left that day.

¶ 11 Defendant filed a *pro se* motion alleging ineffective assistance of counsel, which the trial court denied after a *Krankel* inquiry. The court also denied his motion for a new trial. At sentencing, the State pointed out in aggravation that defendant had a lengthy criminal record, including five felony convictions, three of which were for burglary, that he had never been formally employed, and argued that he could not be rehabilitated at this point. The State also commented on the fact that defendant chose to burglarize a church, where he claimed he went to seek assistance. Accordingly, the State requested that defendant be sentenced closer to the maximum end of the Class X sentencing range for which he was eligible.

¶ 12 In mitigation, defense counsel pointed out that defendant had a troubled childhood, and dropped out of school in the eighth-grade, but then obtained his GED and culinary arts and automotive repair certificates, which indicated that he availed himself of self-improvement opportunities. Defense counsel added that the economic climate was tough, and that defendant was indigent and often unemployed because of his felony record. Counsel stated that defendant did not have a gang affiliation, contrary to his police record, that he had not smoked marijuana since 2008, and that he was not a chronic drug abuser or an alcoholic. Counsel argued that this was not a violent offense, nor a property crime of high value because only a television set was taken, and requested that the trial court impose a term closer to the six year minimum.

¶ 13 In allocution, defendant maintained his innocence, but stated that he was sorry about whatever happened. He also asked the court to have mercy on him.

¶ 14 Before announcing its sentencing decision, the court stated that it considered the statutory factors in mitigation and aggravation, as well as defendant's prior background, education and lack of employment. The court recalled, after reading the presentencing report, that it had sentenced defendant to his most recent term of six years' imprisonment in 2008, and stated that

these previous dealings with defendant did not influence the present finding. The court then observed that defendant had received two minimum sentences as a Class X offender, in addition to three years' imprisonment for possession of a stolen motor vehicle, boot camp for a burglary in 1998, a possession of controlled substance charge, and a misdemeanor conviction for retail theft. The court believed that defendant burglarized the church because it was an easy target, disbelieving his claim that he would not burglarize a church because it would not be moral. Based on defendant's background, and the fact that he was on parole for burglary at the time of the instant offense, the court found his potential for rehabilitation severely limited, and accordingly, sentenced him to 18 years' imprisonment, followed by three years of mandatory supervised release.

¶ 15 On appeal, defendant first challenges the sufficiency of the evidence to prove him guilty of burglary beyond a reasonable doubt. He maintains that the State failed to present any evidence that he had the intent to commit a theft when he entered the church.

¶ 16 When presented with a challenge to the sufficiency of the evidence to sustain a conviction, the relevant question for the reviewing court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). This standard recognizes the responsibility of the trier of fact to determine the credibility of the witnesses, and the weight to be given their testimony, to resolve any inconsistencies and conflicts in the evidence, and to draw reasonable inferences therefrom. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992). This court will not reverse a criminal conviction unless the evidence is so unreasonable, improbable,

or unsatisfactory that it justifies a reasonable doubt of defendant's guilt. *People v. Wheeler*, 226 Ill. 2d 92, 115 (2007).

¶ 17 A person commits burglary when, without authority, he knowingly enters a building, or any part thereof, with the intent to commit a felony or theft therein. 720 ILCS 5/19-1(a) (eff. Jan. 1, 2014). Due to the nature of the crime of burglary, the elements of this offense may be sufficiently proved by circumstantial evidence and the inferences drawn therefrom. *People v. Palmer*, 31 Ill. 2d 58, 66 (1964). This includes the element of intent, which is the gravamen of the offense, and may be inferred from the surrounding circumstances. *People v. Taylor*, 164 Ill. App. 3d 938, 942 (1987).

¶ 18 In this case, defendant was arrested and charged with burglary based on the fingerprint evidence showing that his prints matched those found on the glass top of the pastor's desk in the second-floor office that was forced open. Fingerprint evidence is circumstantial evidence which attempts to connect the accused to the offense charged, and may be sufficient to sustain a conviction where the fingerprints were found in the immediate vicinity of the crime and under circumstances that indicate that they could have only been made at the time the crime occurred. *People v. Rhodes*, 85 Ill. 2d 241, 249 (1981); *People v. White*, 241 Ill. App. 3d 291, 297 (1993). The evidence presented in this case showed that the office where the prints were found had been broken into, and defendant's prints were impressed on a desktop in the immediate vicinity of the stolen television set. The evidence further showed that defendant was not authorized to enter the office, and the glass surface of the desk where his prints were found was cleaned the night before. Taken together, these circumstances were sufficient for the trial court to conclude that defendant's fingerprints were made on the pastor's desk at the time he committed the offense.

¶ 19 Defendant insists, however, that his fingerprints were found in a “public place,” and thus he was simply one of many people who had been in the church, which is insufficient to prove that he was guilty of the offense. This contention is not borne out by the record, which shows that the pastor’s office was not readily accessible to the public. *White*, 241 Ill. App. 3d at 296-297. The office was located on the second floor of the new building with other private offices, and Reverend Flint testified that he held meetings there with individual members of the public only by appointment, and that the custodian was the only person otherwise authorized to enter it. He further testified that he did not meet with defendant, know him, or authorize him to be in his office at any point.

¶ 20 Defendant, in fact, corroborated the pastor’s account that they had never met, when he testified that the man he met in the pastor’s office did not look like Reverend Flint, but was dark, tall, bald, and older. Where defendant elects to explain his presence at the scene of the offense, it is incumbent upon him to tell a reasonable story or be judged by its improbabilities. *People v. Morehead*, 45 Ill. 2d 326, 330 (1970). Here, the trial court specifically found that defendant’s explanation of his innocent presence in the pastor’s office lacked credibility in light of his background and the evidence presented. When taken as a whole, the circumstances here indicate that defendant entered the pastor’s private office without authorization to commit a felony therein, and no other explanation of his conduct or the presence of his prints on a previously cleaned desk seemed as plausible an explanation as the simple inference of intent to commit burglary at the church. *People v. Richardson*, 104 Ill. 2d 8, 13 (1984).

¶ 21 Defendant disputes that conclusion, and maintains that the State failed to prove that he had the requisite intent to commit a theft when he entered the church because the State did not provide direct evidence on when and how he entered the premises or behaved inside the church,

nor recover burglary tools or stolen property from him. The State, however, was not required to present direct evidence to prove unlawful intent, and here, the same circumstances that indicated that defendant committed a burglary—his fingerprints on a previously cleaned desktop, the broken office door, the missing television set, and his lack of authorization to enter the pastor’s private office—are equally persuasive to infer defendant’s intent to commit a theft inside the church. *People v. Holmes*, 127 Ill. App. 2d 209, 213 (1970). That conclusion is not altered by the lack of evidence indicating that defendant was in possession of stolen property or burglary tools, where the record shows that he was arrested almost six months after the burglary.

¶ 22 We also find defendant’s reliance on *People v. Durham*, 252 Ill. App. 3d 88 (1993), and *People v. O’Banion*, 253 Ill. App. 3d 437 (1993) for the proposition that he lacked the requisite intent to commit a theft when entering the church unpersuasive. In both *Durham*, 252 Ill. App. 3d at 90, 93-94, and *O’Banion*, 253 Ill. App. 3d at 428-29, the defendants were found guilty of retail theft rather than burglary on evidence showing that they entered the store as regular customers, and then took merchandise, but were not shown to have the requisite intent to commit burglary when they entered. Here, by contrast, the trial court rejected defendant’s explanation for his entry into the church, and we find that the evidence outlined above and the reasonable inferences therefrom are sufficient to find the element of intent to support his conviction of burglary.

¶ 23 Defendant further contends that the trial court abused its discretion in sentencing him to 18 years’ imprisonment. He acknowledges that he qualified for mandatory Class X sentencing because of his prior felony convictions (730 ILCS 5/5-4.5-95(b) (eff. Jul. 1, 2009)), and that his sentence of 18 years’ imprisonment falls within the 6 to 30 years’ statutory range provided for Class X offenders (730 ILCS 5/5-4.5-25(a) (eff. Jun. 22, 2012)). He asserts, however, that the

trial court failed to consider the mitigating factors outlined in the presentencing report, and imposed a sentence which was disproportionate to the nature of the offense.

¶ 24 A trial court's sentencing decision is afforded great deference, and a reviewing court will disturb a sentence within statutory limits only if the trial court abused its discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-210 (2000). A sentence within the statutory limits will be deemed excessive only if it is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense. *People v. Fern*, 189 Ill. 2d 48, 54 (1999). In fashioning a sentence, a court must balance the retributive and rehabilitative purposes of punishment, and undertake careful consideration of all factors in aggravation and mitigation, but it need not explain the exact thought process it used to arrive at the ultimate sentencing decision. *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002).

¶ 25 Defendant contends that the trial court did not adequately consider mitigating factors, such as his difficult childhood, rehabilitative potential and possible substance abuse problems. We disagree. When a trial court is presented with mitigating evidence, we presume that the court considered that evidence, absent some indication, other than the sentence itself, to the contrary. *People v. Hill*, 408 Ill. App. 3d 23, 30 (2011). Here, the sentencing court explicitly stated that it considered all the statutory factors in aggravation and mitigation, defendant's background, his education, his employment history, as well as "everything contained in the pre-sentence investigation." The court also specifically noted that defendant's rehabilitative potential was severely limited, as supported by his extensive criminal record and history of recidivism, and the fact that defendant was found guilty of the instant crime while on parole from a previous burglary sentence imposed by the same court in 2008. The court observed that defendant had been sentenced to two minimum sentences as a Class X offender already, and accordingly

sentenced defendant to a longer sentence. Other than the sentence itself, defendant offers no evidence that the trial court failed to consider mitigating evidence, and we thus find that his argument fails. *Id.*

¶ 26 Defendant also contends that the nonviolent nature of the offense dictates a more lenient sentence, and that the court did not consider the nature and seriousness of the offense. This was a bench trial, however, where the trial court heard the evidence adduced at trial, and we may presume that it was aware of the nature of the offense. *Id.* The court also noted the prior minimum sentences imposed on defendant, and the lack of rehabilitative potential evidenced by his recidivism. In addition, the court also rejected defendant's claim that it would not be moral to burglarize a church, and found that he preyed on a "ripe target for plucking." It is therefore evident that the trial court considered the appropriate factors in fashioning a sentence, and since we find no abuse of discretion in that sentencing decision, we have no basis to modify it. *People v. Almo*, 108 Ill. 2d 54, 70 (1985).

¶ 27 We therefore affirm the judgment of the circuit court of Cook County.

¶ 28 Affirmed.