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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Winnebago County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 10-CF-57
	)	
JUSTEN M. CUNNINGHAM,	)	Honorable
	)	Joseph G. McGraw,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE SCHOSTOK delivered the judgment of the court.  
Presiding Justice Burke and Justice Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) The trial court did not abuse its discretion in admitting other-crimes evidence, which was relevant to show defendant's criminal intent; (2) the trial court did not abuse its discretion in sentencing defendant to 20 years' imprisonment for home invasion: despite defendant's youth, low intelligence, and lack of criminal history, which the trial court presumably considered, the sentence was justified by the seriousness of the offense and defendant's low rehabilitative potential.

¶ 2 Following a jury trial in the circuit court of Winnebago County, defendant, Justen M. Cunningham, was found guilty of a single count each of home invasion (720 ILCS 5/12-11(a)(2) (West 2008)) and attempted aggravated criminal sexual abuse (720 ILCS 5/8-4(a), 12-16(a)(2) (West 2008)) in connection with an incident that occurred in December 2009. The trial court

sentenced defendant to a 20-year prison term for home invasion and a 3-year prison term for attempted aggravated criminal sexual abuse. On appeal defendant argues that the trial court erred in ruling that, if defendant introduced expert testimony from a psychologist to bolster the defense that defendant acted without a culpable mental state, the State would be permitted to introduce evidence during its case in rebuttal that defendant committed the crime of residential burglary in November 2010. Defendant also argues that the 20-year prison term for home invasion was excessive. We affirm.

¶ 3 The home invasion charge was based on allegations that, on December 23, 2009, defendant entered the Rockford home of C.W. without authority, knowing that one or more individuals were present, and that he intentionally caused injury to the complaining witness, 17-year-old A.W. In charging defendant with attempted aggravated criminal sexual abuse, the State alleged that defendant physically restrained A.W. and demanded that she remove her clothing.

¶ 4 Defendant was interviewed by police after his arrest and he signed a written statement containing the following account of what transpired on the date in question:

“I had been out shoveling snow on December 23, 2009. I usually shovel driveways around the neighborhood and get paid to do [*sic*]. I saw a girl I don’t know go into a house. I thought the girl was older than me. I knew the guy who lived at the house because I’ve done work for him in the past. I knew the guy wasn’t home because his truck wasn’t in the driveway. I went to the house and tried the front door. I found the door was unlocked so I went in. I don’t know why I went into the house. I guess it was to talk to the girl. When I went into the house I could see the girl was in the bathroom. I went to the bathroom. She saw me and screamed. I put my hand over her mouth. I think it was my left hand. I didn’t want her to scream. She told me her nose was bleeding

because of my hand. I didn't see any blood. I didn't want to hurt her so I let her go. She grabbed my arms and said she was going to call the police. I panicked and pushed her and she fell into the bathtub. I ran out of the house and ran home.”

¶ 5 Prior to trial, defendant filed a motion *in limine* to bar the State from presenting evidence of the November 2010 residential burglary. In a separate motion *in limine*, defendant sought an order permitting introduction of evidence of his “low intellectual functioning.” In support of that motion, defendant stated that “probative to the Defendant’s state of mind, motive, and intent at the time of his alleged entry into [C.W.’s] residence is certain intellectual testing \*\*\* which find [sic] [defendant] to be of low intellectual functioning, to include borderline mental retardation.” The State filed motions *in limine* to bar evidence of defendant’s limited intellectual capacity and to permit introduction of evidence of the November 2010 residential burglary.

¶ 6 The State also filed a motion *in limine* to bar defendant from introducing his written statement to police into evidence. The State indicated that it intended to offer the testimony of Kevin Nordberg, the detective who interviewed defendant, that defendant had admitted entering C.W.’s house. According to the motion, the State did not intend to offer defendant’s written statement into evidence. The State argued that the hearsay rule prohibited defendant from offering his written statement as evidence that he acted without a culpable mental state.

¶ 7 At the hearing on the parties’ motions *in limine*, the prosecutor described both the December 2009 incident forming the basis of the charges in this case and the subsequent residential burglary in November of the following year. The prosecutor stated that the evidence would show that on December 23, 2009, A.W. went for a midday walk in her neighborhood. As she left, she saw someone standing outside with a shovel. When she returned to her house, she left the door unlocked because her grandmother was coming over to take her to work. While

A.W. was in the bathroom, defendant entered the house. According to the prosecutor, defendant “was the same person [A.W.] had seen standing outside.” Defendant entered the bathroom, covered A.W.’s mouth, told her to be quiet, and told her to take her shirt off. When A.W. struggled with defendant, she fell into the bathtub. Defendant kicked her once in the head. A.W. pretended to be unconscious and defendant left the house. Defendant was arrested and released on bond.

¶ 8 The prosecutor related that defendant was arrested again after reportedly attempting to gain entry to a home through the attached garage in November 2010. A woman in her 20’s was in the home at the time. Before the attempted break-in, defendant knocked on the door. He was with a friend and he asked the woman if there was any yard work he could do. Defendant had done yard work at the home in the past. The woman told defendant that her husband was not home and that he should come back. Defendant returned later and asked if he could mow the lawn. The woman said “no” and defendant left. The woman later heard someone in the garage trying to get into the house through the door from the garage to the kitchen. After announcing that she was calling the police, she saw defendant running away.

¶ 9 Arguing that evidence of the later incident should be permitted, the prosecutor stated as follows:

“The defendant’s position is going to be that, ‘No, I never meant to hurt the victim in the first case. I wasn’t going in to do anything. I don’t know why I went in the house.’ Clearly the—that’s certainly not the People’s theory of the case. The second incident—the second charged incident goes to the defendant’s intent, lack of mistake and motive.”

¶ 10 The trial court ruled that the State would not be permitted to introduce the evidence during its case-in-chief. After remarking that the incidents were “factually dissimilar,” the court added, however, that it “would not permit [defendant] to commit perjury and say something on the stand that [the court] thought implicated the issue of an innocent or mistaken belief that he had permission to come in, for some reason.” The court explained:

“I can’t foresee every possible way that [defendant’s] testimony might come out. All that I’m saying is that, for purposes of the State’s rebuttal case, for purposes of cross-examination, before I permit any of this, the State would be required to approach, ask for a sidebar, explain to me why or how the defendant’s testimony on direct implicated or opened the door to this other occurrence. I would have to make a determination at that time whether I was going to permit cross on the other occurrence.

Likewise, if I did permit it, then we would have further discussion about whether or not they could present that other occurrence information in their rebuttal case to rebut or refute some expression of mistake or inadvertence or innocent intent in this case.

So I’m mentioning that so that there’s no misunderstanding. I’m not ruling on—I’m not precluding it from coming in the rebuttal case if the door is opened by something [defendant] might say on direct or cross; but for purposes of the State’s case in chief, I find that it’s dissimilar enough or that it’s [sic] prejudicial effect, in any event, outweighs the probative value at this time.”

¶ 11 The trial court then considered the motions *in limine* pertaining to evidence of defendant’s limited intellect. Defendant sought to present the testimony of Robert Meyer, a clinical psychologist who had evaluated both defendant’s I.Q. and his fitness to stand trial. Meyer testified in an offer of proof that defendant had a full-scale I.Q. of 75, placing him in the

“borderline range” between the categories of “mental retardation and low average intelligence.” Meyer testified that he found defendant to be “rather immature” and to “lack some basic social graces.” According to Meyer, a low I.Q. can affect an individual’s ability to appreciate the social consequences of their actions. Defendant’s attorney argued that, absent such testimony to provide a context for defendant’s actions, a jury would probably be reluctant to believe that defendant entered A.W.’s home simply to talk to her.

¶ 12 The trial court reserved its decision on the admissibility of Meyer’s testimony and then turned its attention to the State’s motion to bar defendant from introducing his written statement into evidence. The trial court ruled that, if the State introduced evidence of defendant’s statements to police (either oral or written), then defendant would be permitted to introduce the written statement for the purpose of establishing his reason for entering the house. Thereafter, the trial court ruled as follows on the motions concerning Meyer’s testimony:

“[I]f the State puts in the defendant’s statement, I think that would put before the jury the issue of the defendant’s explanation as to why he went into the residence ‘to talk to the girl,’ as he puts it. I would permit Doctor Meyer to testify about the defendant’s IQ and related objective measurements of defendant’s intelligence.

I suppose then an argument could be made that a person of that intelligence level might think that going into a house where you’re uninvited to talk to a girl might make sense to that person and that jurors might draw certain inferences from Doctor Meyer’s testimony about defendant’s state of mind. That might be an argument that could be made.

If the State does not put the statement in, I would not permit Doctor Meyer to testify. Accordingly, if the defendant testifies first, then presumably if that statement is

testified to by the defendant, that he just went in to talk to the girl, then presumably Doctor Meyer's testimony would be relevant for the same reasons I've already mentioned. But it would have to happen in that sequence.

But if the defendant testifies and testifies he just went in to meet the girl—or talk to the girl, then I would permit the State to call the other witness potentially in rebuttal from the other occurrence to rebut the notion that it was innocence or simplemindedness that motivated the defendant to go into [A.W.'s] residence \*\*\*.”

¶ 13 The trial court clarified its ruling, indicating that evidence of the November 2010 incident would be admissible *only* if defendant called Meyer as a witness. If defendant testified about his reason for entering the house, but did not call Meyer as a witness, the State would be barred from introducing evidence of the November 2010 incident.

¶ 14 At trial, A.W. testified that on December 23, 2009, she went for a walk at about 1:15 or 1:30 p.m. There was snow on the ground. While walking, A.W. saw a man wearing a hooded jacket and holding a shovel. She did not recognize the man at that time. A.W. walked for about 25 minutes. As she was returning home, the man with the shovel was still at the same location where she had previously seen him. A.W. continued home, and when she arrived she saw the same man again. He was walking slowly in the direction away from her house. A.W. entered her house, leaving the door unlocked for her grandmother (who was picking A.W. up for work). A.W. went into the bathroom to get ready for work. While she was putting on makeup, she saw a man, whom she identified as defendant, running at her. She recognized his coat as the same one worn by the man she had seen on her walk. A.W. screamed. Defendant ran up behind her and put one hand under her shirt. He put his other hand over her mouth and partly over her nose. She had a piercing in her nose and it was pressing into the inside of her nose, causing pain and

bleeding. When A.W. started to tell defendant that he was hurting her, he told her to “shut the fuck up” and take her “fucking shirt off.” Defendant took his hand off of A.W.’s face, and she was able to turn around. At that point, she recognized defendant; he had come by her house occasionally, asking if there was any yard work he could do. After turning around, A.W. told defendant, “Get the fuck out of my house.” She also tried to shove defendant, but he pushed her, causing her to fall into the bathtub and hit her head on the handle of the soap dish. Defendant kicked A.W. in the face, stepped on her ribs, and then fled. As a result of the attack, A.W. suffered a cut lip, a bloody nose, “sensitive” ribs, and a knot on the back of her head.

¶ 15 Defendant testified that on December 23, 2009, he entered a house in his neighborhood without permission. He was 17 years old at the time. Before entering the house, he had been soliciting work shoveling snow. When he saw a girl enter the house, he went into the house to talk to her. According to defendant, the door to the house was “cracked a little.” Defendant testified that he just wanted to get to know the girl and did not intend to harm her. When defendant encountered the girl in the house, she screamed. Defendant was scared. He put his hand over the girl’s mouth, but he took it off when she stopped screaming and told him that her nose was bleeding. Defendant testified that the girl told him to “get the fuck out of her house.” She then grabbed his wrist and pushed him against the door. Defendant panicked and pushed her back. The girl fell into the bathtub. Defendant ran home. Defendant denied kicking the girl or telling her to take her shirt off. On cross-examination, defendant acknowledged giving a statement to Nordberg. Defendant did not remember whether he told Nordberg that the door to A.W.’s house was “open a crack.”

¶ 16 The defense did not call Meyer to testify in its case-in-chief. The State called Nordberg as a rebuttal witness. He testified that he interviewed defendant and prepared a written statement

reflecting what defendant told him. Defendant read the statement, made some corrections, and then signed it. The trial court admitted the written statement into evidence, but did not permit it to be published to the jury. Defense counsel then inquired whether the trial court would permit the defense to call Meyer as a surrebuttal witness. The trial court indicated that it would not permit surrebuttal.

¶ 17 At sentencing, the woman whose home defendant attempted to enter in November 2010 testified about that incident. The transcript of Meyer's testimony regarding defendant's I.Q. was admitted into evidence, as were the results of defendant's I.Q. test. Defendant's mother testified that defendant had been diagnosed with bipolar disorder and attention deficit/hyperactivity disorder. Defendant attended special education classes and graduated from high school. Defendant's presentence investigation report indicates that he had no prior adult or juvenile criminal history.

¶ 18 Defendant first argues that the trial court erred in ruling that, if he presented Meyer's testimony concerning defendant's intellectual capacity, the State would be permitted to present evidence implicating defendant in a subsequent residential burglary. Defendant correctly observes that one of the crimes he was charged with committing—attempted aggravated criminal sexual abuse—requires proof of a specific intent to commit aggravated criminal sexual abuse. See generally *People v. Garrett*, 401 Ill. App. 3d 238, 244 (2010) (“The crime of attempt requires a specific intent to commit the named offense.”). Defendant insists that Meyer's testimony was admissible to show that defendant did not act with the requisite mental state. Defendant argues that evidence bearing on his mental state was essential to his defense. According to defendant, the trial court “unreasonably conditioned the defendant's right to

present relevant state of mind evidence on the admission of other crimes evidence that [the court] had previously recognized to be otherwise inadmissible.”

¶ 19 The State response is essentially threefold. First, the State disputes defendant’s assertion that the trial court’s ruling “conditioned” the admission of Meyer’s testimony on the admission of “other crimes” evidence. According to the State, the opposite is true: the trial court conditioned admission of “other crimes” evidence on the admission of Meyer’s testimony. According to the State, the trial court would not have erred even if it had *unconditionally* permitted evidence of other crimes. Second, the State contends that Meyer’s testimony regarding defendant’s I.Q. was not relevant to the issue of whether defendant acted with the requisite mental state for attempted aggravated criminal sexual abuse.<sup>1</sup> Third, the State argues that, even to the extent the trial court erred by conditionally granting its motion *in limine* to present “other crimes” evidence (thereby unfairly burdening defendant’s right to present Meyer’s

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<sup>1</sup> We note that the underlying premise of the State’s argument on this point is that, although the trial court ruled that Meyer could testify about defendant’s I.Q., evidence that defendant’s I.Q. might correlate with an inability to appreciate the consequences of his actions was outside the scope of the permissible testimony under the trial court’s ruling. The State contends that defendant did not challenge that aspect of the trial court’s ruling in his posttrial motion, and he thus failed to preserve any error pertaining to the permissible scope of Meyer’s testimony. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). However, defendant does not argue on appeal that the trial court improperly restricted the scope of Meyer’s testimony if defendant elected to call him as a witness. The question of whether an argument that defendant does not make was preserved for review is entirely academic.

testimony), the error was harmless inasmuch as Meyer's testimony could not have affected the outcome of the trial.

¶ 20 The admissibility of the State's "other crimes" evidence is at the heart of both parties' arguments, so we begin our analysis with an examination of that issue. As a rule, "evidentiary motions, such as motions *in limine*, are directed to the trial court's discretion, and reviewing courts will not disturb a trial court's evidentiary ruling absent an abuse of discretion." *People v. Harvey*, 211 Ill. 2d 368, 392 (2004). The admissibility of "other crimes" evidence is governed by Rule 404(b) of the Illinois Rules of Evidence, which provides:

"Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith except as provided by sections 115-7.3, 115-7.4, and 115-20 of the Code of Criminal Procedure (725 ILCS 5/115-7.3, 725 ILCS 5/115-7.4, and 725 ILCS 5/115-20). Such evidence may also be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Ill. R. Evid. 404(b) (eff. Jan. 1, 2011).

¶ 21 It has long been the rule that, although "evidence of other crimes is inadmissible if relevant merely to establish the defendant's propensity to commit crime" (*People v. McKibbins*, 96 Ill. 2d 176, 182 (1983)), such evidence is admissible if relevant for any other purpose (*id.*). As our supreme court has explained:

"The law distrusts the inference that because a man has committed other crimes he is more likely to have committed the current crime. And so, as a matter of policy, where the testimony has no value beyond that inference, it is excluded. But where the evidence is independently relevant it is admissible as, for example, where it shows motive or

intent, identity, absence of mistake or accident, or the existence of a common scheme or design.” *People v. Lehman*, 5 Ill. 2d 337, 342-43 (1955).

¶ 22 That said, “even where relevant, the evidence should not be admitted if its probative value is substantially outweighed by its prejudicial effect.” *People v. Pikes*, 2013 IL 115171, ¶ 11.

¶ 23 In *McKibbins*, the defendant was found guilty of murder, armed robbery, and armed violence. The convictions stemmed from the killing of Clinton Hutchinson, a parking lot attendant, on February 14, 1979. At trial, the State introduced evidence that the defendant and two accomplices, James Matthews and John Brown robbed a jewelry store two days after the murder. The evidence showed that one of the accomplices announced the robbery while the defendant and the other accomplice collected merchandise from behind the counter. Police arrived while the robbery was in progress, and Matthews fired a handgun at one of the officers. When the defendant, Brown, and Matthews were arrested for the jewelry store robbery, a coin similar to one that had belonged to Hutchinson was found in Brown’s possession, as were handcuffs similar to those used to restrain Hutchinson. The defendant was questioned about his involvement in both the jewelry store robbery and Hutchinson’s murder. He admitted that, along with Brown and Matthews, he had driven to the parking lot where Hutchinson worked. Carrying revolvers and a pair of handcuffs, Brown and Matthews entered a shack in the center of the parking lot. The defendant remained in the car. When Matthews and Brown returned, they told the defendant to drive away fast because they had just “ ‘burned a guy’ ” (*McKibbins*, 96 Ill. 2d at 181). The defendant argued on appeal that the trial court erred by permitting the jury to hear evidence of the jewelry store robbery that occurred two days after the murder for which he was on trial. The *McKibbins* court noted, in passing, that the evidence of the jewelry store robbery

was relevant to show the circumstances of the defendant's arrest and to link the defendant, Brown, and Matthews to the murder. Of particular significance here, however, the court identified another reason to admit evidence of the jewelry store robbery:

“[T]he defendant's involvement in the murder was established by his statements to the police officers \*\*\*. \*\*\* However, in the defendant's statement he said that he had remained in the car while his two companions had entered the shack in the parking lot to rob Hutchinson, who was killed during the robbery. Evidence that the defendant, just two days later, was involved in another armed robbery with the same two companions, in which the other similarities noted were also present, was admissible to dispel any idea that the defendant had been somehow innocently involved in the robbery-murder. Although he may not have directly and actively participated in the actual robbery and murder, his involvement in the subsequent offense with the same two companions and the other similarities noted tend to establish that he participated in the previous offense with the necessary criminal intent. The evidence was thus relevant for a purpose other than to show the defendant's propensity to commit crime and was therefore admissible.” *Id.* at 186.

¶ 24 In this case, evidence of the November 2010 incident was likewise admissible (1) to show that defendant acted with criminal intent when he entered A.W.'s house and accosted her and (2) to rebut the possible inference that, because of his low IQ, he did not understand that it was socially unacceptable to enter A.W.'s house simply because he wanted to talk to her.

¶ 25 Defendant contends that the November 2010 incident was not similar enough to the December 23, 2009, attack on A.W. to justify admitting evidence of the later crime. Defendant adds that the trial judge “had already ruled the November [2010] incident ‘factually dissimilar’

from the incident at bar and not admissible to prove intent.” According to defendant, “[f]or [the trial judge] to reverse his finding that any probative value derivable from the other crime would be exceeded by the prejudice it would cause, and rule that it would be admissible if the defendant tried to present relevant state of mind evidence amounted to a *quid pro quo* which cannot be condoned.” The argument is meritless. The trial court made clear from the outset that it was “not precluding [other-crimes evidence] from coming in the rebuttal case if the door is opened by something [defendant] might say on direct or cross.” Rather the trial court ruled merely that “*for purposes of the State’s case in chief*” (emphasis added) the other-crimes evidence was “dissimilar enough *or \*\*\* it’s [sic] prejudicial effect, in any event, outweighs the probative value*” (emphasis added). The court specifically left open the possibility that, if defendant presented evidence that he did not enter A.W.’s house for a criminal purpose, the State might be permitted to present evidence of the November 2010 incident. As explained, to do so would be entirely consistent with the reasoning in *McKibbins*. The trial court’s ultimate ruling was more favorable to defendant; the trial court permitted defendant to testify that he entered the home for an innocent purpose—to talk to A.W.—without opening the door to other-crimes evidence unless defendant also offered *Meyer’s* testimony.

¶ 26 Moreover, the November 2010 incident was similar enough to the December 2009 incident to be probative of defendant’s intent when he entered A.W.’s home. When other-crimes evidence is presented to establish the identity of the offender, “the two offenses must be so similar that evidence of one offense tends to prove the defendant guilty of the offense charged.” *Id.* at 185. However, as explained in *McKibbins*:

“[T]he same degree of identity of the two offenses is not necessary when evidence of defendant’s involvement in another offense is not offered to prove the commission of the

crime charged, but is offered to prove the absence of an innocent frame of mind or the presence of criminal intent. In such a case, mere general areas of similarity will suffice. If these general similarities are shown, evidence of the defendant's involvement in another offense may be shown to establish the necessary criminal intent of the defendant in the offense charged." *Id.* at 185-86.

¶ 27 Here, in both incidents defendant entered or attempted to enter the living space of homes at which he had previously solicited opportunities to do odd jobs such as yard work or shoveling snow. In both incidents defendant had reason to know that a female was present in the home and that an adult male was absent.

¶ 28 Accordingly we conclude that the trial court's ruling on the admissibility of evidence of the November 2010 incident was not an abuse of discretion. We therefore have no occasion to consider the State's alternative arguments.

¶ 29 We next consider defendant's challenge to his sentence of 20 years' imprisonment for home invasion. It is well established that "the trial court is the proper forum to determine a sentence and the trial judge's decision in sentencing is entitled to great deference and weight." *People v. Latona*, 184 Ill. 2d 260, 272 (1998). The following principles guide our review of the trial court's decision:

"In determining an appropriate sentence, relevant considerations include the nature of the crime, the protection of the public, deterrence, and punishment, as well as the defendant's rehabilitative prospects and youth. [Citation.] The weight to be attributed to each factor in aggravation and in mitigation depends upon the particular circumstances of the case. [Citation.] The existence of mitigating factors does not obligate the trial court to impose the minimum sentence. [Citation.] Moreover, the trial

court is not required to specifically identify all factors in mitigation that it considered. [Citation.] A sentencing judge is presumed to have considered all relevant factors, including the mitigating evidence presented, unless the record affirmatively shows otherwise.” *People v. Chirchirillo*, 393 Ill. App. 3d 916, 927 (2009).

¶ 30 Furthermore, “[a] sentence within the statutory limits for the offense will not be disturbed unless the trial court abused its discretion,” which occurs when “the trial court imposes a sentence that is greatly at variance with the spirit and purpose of the law, or is manifestly disproportionate to the crime.” *People v. Watt*, 2013 IL App (2d) 120183, ¶ 49.

¶ 31 Defendant stresses that he was only 17 years of age when the offense occurred and that he had no prior juvenile or adult criminal history. He also argues that, given his low I.Q., he should be deemed less culpable than one of average intelligence. Defendant points to nothing in the record to overcome the presumption that the trial court considered these circumstances in determining an appropriate sentence. Additionally, the trial court was not required to give more weight to these mitigating factors than to the seriousness of the offense. *People v. Smith*, 362 Ill. App. 3d 1062, 1090 (2005). Here, the offense was quite serious, not merely because home invasion is an inherently serious offense, but because it is not at all difficult to imagine defendant’s actions having tragic consequences. Defendant pushed the victim, causing her to fall into a bathtub and hit her head on the handle of the soap dish. We note that the record contains photographs of the bathtub showing a metal soap dish affixed to a tiled wall running along one side of the tub.

¶ 32 Moreover, despite defendant’s youth, low intelligence, and lack of a prior criminal history, the evidence that defendant attempted to break into another occupied house after being released on bond does not speak favorably to defendant’s prospects for rehabilitation. To the

contrary, the evidence of defendant's conduct subsequent to the present offense underscores the need to protect the public. Under these circumstances, we cannot say that defendant's sentence was either "greatly at variance with the spirit and purpose of the law" or "manifestly disproportionate to the crime." *Watt*, 2013 IL App (2d) 120183, ¶ 49.

¶ 33 For the foregoing reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 34 Affirmed.