No. 2—09—0650
Order filed March 9, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
Plaintiff-Appellee,	)	
v.	)	No. 08—CF—2157
TRACY R. HOPKINS,	)	Honorable John J. Kinsella,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Zenoff and Hudson concurred in the judgment.

ORDER

Held: The trial court did not abuse its discretion when it sentenced defendant; although the trial court had speculated at the sentencing hearing that defendant had committed "hundreds, if not thousands" of burglaries, the sentence was not the product of such speculation; the sentence was properly based on defendant's extensive criminal record.

Defendant, Tracy R. Hopkins, pleaded guilty to a single count of being an armed habitual criminal (720 ILCS 5/24—1.7(a) (West 2008)). Although the State nol-prossed other charges against defendant, there was no agreement regarding defendant's sentence. The trial court sentenced defendant to a 22-year term of imprisonment. Defendant moved for reconsideration of his sentence,

and the trial court reduced his sentence to 12 years and 4 months. The trial court did so because it had originally sentenced defendant based on the understanding that, pursuant to section 3—6—3(a)(2.1) of the Unified Code of Corrections (730 ILCS 5/3—6—3(a)(2.1) (West 2008)), defendant would be eligible to receive day-for-day good conduct credit toward his prison term. However, the trial court recognized that one convicted of being an armed habitual offender may receive no more than 4½ days of good conduct credit per month (see 730 ILCS 5/3—6—3(a)(2)(ii) (West 2008)) and reduced defendant's sentence. Defendant filed a timely notice of appeal. Notwithstanding the reduction of his prison term, defendant contends that the trial court abused its discretion when it sentenced him because the court improperly speculated about his criminal history. We affirm.

At defendant's sentencing hearing, the State introduced evidence that in June and July of 2008, shortly after defendant completed a prison term for residential burglary, a total of seven residential burglaries and an attempted residential burglary occurred in Wheaton, Glendale Heights, and Glen Ellyn. After his release, defendant initially lived in Glendale Heights, but thereafter moved to Wheaton. The Wheaton burglaries occurred not far from defendant's Wheaton residence and the Glendale Heights burglaries occurred near defendant's Glendale Heights residence. On July 31, 2008, Wheaton police officers placed defendant under surveillance. He was observed knocking on the front and rear doors of a residence on President Street. Defendant then walked into the backyard and about 15 minutes later he emerged through the front door. He was wearing gloves and carrying property out of the home. Defendant was then taken into custody and two firearms were recovered during a search of defendant's person.

A Wheaton police officer testified that on June 9, 2004, he was involved in the investigation of a burglary. Defendant was arrested on that date and he admitted responsibility for that crime. The officer asked defendant how many burglaries defendant had committed in the preceding 30 days. Defendant responded that he had lost count.

The presentence investigation report (PSI) indicated that defendant was 45 years old at the time of the offense and that he had been convicted of 12 burglaries or residential burglaries in Illinois and California since 1980. The PSI also indicated that defendant had a longstanding substance abuse problem. Speaking in allocution, defendant indicated that he felt bad about having committed the July 31, 2008, burglary. He stated that he had been molested as a child and that he had been "getting high" since he was eight years old.

When pronouncing sentence, the trial court, *inter alia*, stated:

"I won't consider the cases that were—there was not a direct connection made between the defendant and, obviously, the offense and the—where he was identified. However, having said that, not considering those offenses at this sentencing hearing, the fact remains the defendant is a lifelong burglar. That's what he has done when he's not been in jail.

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*** So we can quibble about the numbers, but it seems fairly obvious to me that when the defendant has not been locked up, he's been out stealing, committing burglaries, breaking into peoples' [*sic*] homes. That's what he's done. That's what he's done for many, many years. And that's what brings him here today. He will be viewed by this Court and sentenced as somebody who has made that life choice to engage in, *and one can only*

speculate, but it's probably literally hundreds, if not thousands, of burglaries in his lifetime. That's how the Court will view the defendant." (Emphasis added.)

Citing the emphasized language above, defendant argues that it was improper for the trial court to speculate about the number of burglaries he committed in his lifetime and that it is therefore necessary to remand the case for a new sentencing hearing. Remand is not warranted. " 'An isolated remark made in passing, even though improper, does not necessarily require that defendant be resentenced.' " *People v. Reed*, 376 Ill. App. 3d 121, 128 (2007) (quoting *People v. Fort*, 229 Ill. App. 3d 336, 340 (1992)). To obtain a reversal, the defendant "must show that the trial court relied on the improper fact when imposing sentence." *Id.* Here, it is abundantly clear from the record that the trial court's decision was not based on improper speculation about defendant's criminal history and was not an abuse of discretion. At the sentencing hearing the trial court prefaced its remarks by stating that it was not considering crimes with no direct connection to defendant. Moreover, in ruling on defendant's motion to reconsider his sentence—in which defendant made essentially the same argument that he makes now—the trial court stressed that defendant's sentence was warranted by his extensive criminal record over a period of approximately 28 years. The trial court aptly described defendant as a "career criminal," explaining that "[t]he Court's discussion of [defendant's] criminal history *** accurately and consistent[ly] with his background and the evidence reflects that fact." Perhaps the trial court should not have ventured a guess as to the number of crimes defendant *might* have committed. However, the sentencing decision was not the product of speculation, and the offhand remark of which defendant complains does not warrant a new sentencing hearing.

For the foregoing reasons, we affirm the judgment of the circuit court of Du Page County.

Affirmed.