2014 IL App (3d) 120306-U

Order filed May 12, 2014

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 9th Judicial Circuit, Knox County, Illinois,
Plaintiff-Appellee,	)	Appeal No. 3-12-0306
v.	)	Circuit No. 11-CF-112
DARRIUS D. DANIELS,	)	Honorable James B. Stewart,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Justice O'Brien concurred in the judgment.
Justice Schmidt dissented.

ORDER

¶ 1 *Held*: (1) Defendant is entitled to a new trial where the State committed discovery violations by failing to disclose material information about the confidential sources who bought cocaine from defendant. (2) The trial court erred by imposing consecutive sentences where there was nothing in the record to suggest that consecutive sentences were necessary to protect the public from defendant.

¶ 2 A jury found defendant, Darrius D. Daniels, guilty of two counts of unlawful delivery of a controlled substance (720 ILCS 570/401(d) (West 2010)) after defendant, on two occasions, sold less than one gram of crack cocaine during controlled buys orchestrated by the Galesburg

Police Department (GPD). The trial court sentenced defendant to extended-term consecutive sentences of seven years' imprisonment on each count. Defendant appeals his convictions and sentences, arguing that the State committed two separate discovery violations when it failed to disclose (a) that not one but two confidential sources were present during the first controlled buy, and (b) a complete history of payments received by one of the confidential sources for his previous work as a source. Defendant further contends that the State made improper statements during *voir dire*, and the trial court abused its discretion by imposing consecutive sentences. We reverse and remand.

¶ 3 FACTS

¶ 4 The State charged defendant with two counts of unlawful delivery of a controlled substance (720 ILCS 570/401(d) (West 2010)) after he allegedly sold crack cocaine twice to a government source during controlled buys conducted by the GPD.

¶ 5 Defendant filed a pretrial motion to compel discovery. The motion requested that the State disclose information about any confidential informants "who have been acting in such capacity in this case[.]" Specifically, the motion solicited disclosure of the informants' names, addresses, and prior criminal records, as well as their histories of prior work as informants, both for GPD and any other government agencies, and a record of any inducements, promises, or compensation they received for their work. The motion also requested the State to make the informants available as witnesses. The trial court granted defendant's motion and ordered the State to produce the requested material.

¶ 6 The State produced discovery, but defendant filed a motion *in limine* arguing that the disclosures were lacking. The motion explained that the State had disclosed information about a source named Mitchell Slock, who participated in the controlled buys. The motion claimed, however, that the information disclosed about Slock was incomplete because the State had not

disclosed Slock's history of work as a confidential source or a record of the promises, inducements, or payments he received for that work. At a hearing on the motion, defense counsel explained that the State had since complied with the motion and disclosed the requested information. A copy of the additional information disclosed does not appear in the record, nor did counsel explain at the hearing exactly what further information was disclosed. Slock was the only source identified in the State's disclosures.

¶ 7 The cause proceeded to a jury trial. During *voir dire*, the prosecutor explained to the potential jurors that the State was required to prove defendant guilty beyond a reasonable doubt. The prosecutor elaborated that the jurors could convict while retaining some doubt about defendant's guilt, as long as that doubt was not a reasonable one. The prosecutor asked jurors whether they understood the difference between all doubt and reasonable doubt. The prosecutor posed two hypotheticals about whether the jury would convict a defendant based on varying quantities and qualities of evidence. Defense counsel objected, arguing that the prosecutor was impermissibly defining reasonable doubt and attempting to pretry the case. The court found that "we're starting to indoctrinate the jury," but overruled the objection.

¶ 8 At trial, three GPD officers testified for the State. Detective Robert Schwartz testified that Slock had worked intermittently as a paid informant for GPD for the past 10 years. On July 29, 2010, Slock came to the police station and approached Schwartz with a proposal to buy crack cocaine from a person nicknamed Elmo. It was not unusual for Slock to approach Schwartz with proposals to purchase narcotics. Schwartz agreed, and someone—it is unclear from Schwartz's testimony who—called Elmo's cellular telephone and arranged to purchase $100 in crack cocaine from Elmo at RJ's Pub in Galesburg later that evening.

¶ 9 Schwartz testified to the procedures used by the GPD to ensure that drug buys are controlled. Schwartz explained that prior to the buy, the confidential source reports to the police

station. Officers search the source's person and vehicle, if one is being used. Officers then take any currency that the source is carrying and provide the source with prerecorded currency to purchase the drugs. Officers observe as the source travels to the meeting site and purchases the drugs. After the purchase, officers meet with the source, who turns over the drugs and is again searched. The source gives a statement to officers describing the purchase.

¶ 10 Schwartz testified that Slock and his vehicle were searched and surveillance was established at RJ's Pub. Schwartz followed as Slock drove his vehicle to the parking lot of RJ's Pub. Another vehicle arrived in the parking lot. An African-American male exited the vehicle and approached the passenger side of Slock's vehicle. Slock drove away and met officers at a prearranged location, where he gave officers less than one gram of crack cocaine.

¶ 11 Schwartz testified that on August 4, 2010, Slock again approached Schwartz with an offer to buy crack cocaine from Elmo. Slock arrived at the police station and was given $50 to purchase the drugs. His person and vehicle were searched. A call was placed to Elmo's cellular telephone to arrange a purchase at Discount Liquor. Schwartz followed Slock to Discount Liquor, where a blue Oldsmobile was parked in the parking lot. An African-American man exited the liquor store. Slock got out of his vehicle and met the man near the Oldsmobile. Schwartz could not see whether the men exchanged anything. Slock got back into his vehicle and traveled to a prearranged meet location, where he gave Schwartz less than one gram of crack cocaine.

¶ 12 Schwartz testified that he paid Slock probably $25 for his work during the second buy and that Slock would have been paid whether or not he was successful in purchasing the drugs. Schwartz explained that Slock is usually paid half the value of the drugs he purchases, plus expenses. On cross-examination, Schwartz testified that Slock received a total payment of $175 for the first purchase. Defense counsel also asked Schwartz, "[D]id he drive that vehicle by

himself or was there another officer in the car with him?" Schwartz's complete response to that question was, "There was not an officer in the car with him."

¶ 13 Detectives Kevin Legate and Brad Cirimotich testified that they conducted surveillance during both of the controlled buys. Legate testified that he was unable to observe the first buy from his location. During the second buy, Legate observed Slock meet a man in the Discount Liquor parking lot but could not identify the man or see whether Slock and the man exchanged anything. Cirimotich testified that he too was unable to observe the first buy from his surveillance position. Cirimotich testified that, during the second buy, a man exited the liquor store and got back in his car before Slock approached his vehicle. Cirimotich could not identify the man or tell whether Slock and the other man exchanged anything.

¶ 14 Slock testified that he had worked as a confidential informant for the GPD, along with the Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), U.S. Marshals Service, and other government agencies. He explained that he is paid for his work for the GPD, but not very much. He does the work not only for the money, but also "[b]ecause there's a problem out there; and if more people like myself would step up, there wouldn't be half the problem that there is today." He testified that he doesn't work as an informant to make a profit.

¶ 15 Slock testified that he approached Schwartz on July 29, 2010, to purchase crack cocaine from Elmo. Slock and his vehicle were searched. Slock traveled to RJ's Pub where he met with defendant and purchased $100 worth of crack cocaine from him. Slock then traveled back to the police station, where he turned the drugs over to officers and was searched again. Likewise, on August 4, 2010, Slock arrived at the police station, where officers searched his person and vehicle. He traveled to Discount Liquor where he met defendant and purchased crack cocaine from him. The State ended its examination of Slock.

¶ 16 Defense counsel moved for a mistrial on the basis of a discovery violation. Counsel explained that Slock's history as an informant for the DEA, ATF, and U.S. Marshals was not disclosed pretrial, in violation of the discovery order. Counsel argued that, as a result, the defense was unprepared to cross-examine Slock about potential payments he received from those agencies. The State was able to bolster Slock's credibility with this work history, without defendant having an opportunity to challenge that credibility by establishing Slock's monetary motive in working as an informant. The court denied the motion for a mistrial.

¶ 17 On cross-examination, Slock testified that he was paid $100 for providing information and conducting the buy on August 4. Slock testified that he has declined payment on some occasions after working as an informant.

¶ 18 Slock also testified that a female was in the vehicle with him when he conducted the first buy. Slock explained that she was searched by the GPD before and after the buy. However, Slock did not actually witness officers searching her. Slock had met her in a bar in Galesburg, and she was the person who knew defendant and arranged the first buy. After the conclusion of Slock's testimony, the State rested its case.

¶ 19 Defendant again moved for a mistrial. In support of the motion, defendant argued that the State had committed a discovery violation by failing to disclose that another source was present with Slock during the first buy. The State responded that the person in the vehicle with Slock had not participated in the buy and was just "along for the ride." Therefore, the discovery order did not require the State to disclose information about her. The court refused to grant a mistrial, finding it an extreme sanction. The court found that the discovery violations by the State would be revisited after trial and might be enough to justify a new trial.

¶ 20 During closing argument, the State asked the jury to remember the hypotheticals posed to it during *voir dire*. The prosecutor reiterated that the jury could convict despite having doubts,

so long as those doubts were not reasonable. The court overruled defendant's objection to the State's comments. The jury returned a guilty verdict on both counts. The court, anticipating a posttrial motion by defendant, ordered the State to disclose to defendant a record of Slock's work as an informant for other government agencies. In addition, the court ordered the State to disclose the location of the female source so that defendant could contact her.

¶ 21 Defendant filed a motion for a new trial. In it he argued that the prosecutor's statements about reasonable doubt violated defendant's right to due process. In addition, defendant argued that the State's failure to disclose that an additional source participated in the first buy was a discovery violation and a violation of due process. Defendant also argued that a mistrial should have been granted in response to the State's failure to disclose Slock's complete history as a confidential informant.

¶ 22 In response to defendant's motion, the State filed a response accompanied by two affidavits. The first affidavit was from a person named Bernie Spike. The affidavit averred:

> "On 7-29-10
>
> Met with Inv Schartz and second person that I did not know. For the purpose of buying cracke from Elmo. I contacted Elmo by cell phone an I asked for 100.00 of crack cocaine and Elmo said he was on way back from Peoria Ill an he would call me as soon as he got to Galesburg Ill. He called an said to meet him behind RJ Bar & Grill. He approached the vehicle. I was in the right front of car. I told him it was the guy in the back seat and he served him."

¶ 23 The second affidavit included contact information for the other government agencies Slock had worked for. The affidavit also included a statement from Lieutenant Thomas

LaFollette about Slock's work history with local law enforcement. From 1996-2000, Slock worked on Operation Crack Shot where he participated in approximately 30 controlled buys. From 2000-2004 Slock worked for the Peoria Multi-County Narcotics Enforcement Group, where he worked on approximately 40 cases. From 2004-2012 Slock worked as a source for the GPD on approximately 50 cases. Slock was paid cash for each case worked, based on the amount of drugs he bought. He never worked as a source in exchange for consideration relating to any criminal charges against him.

¶ 24 The State's response argued that the prosecutor's questioning during *voir dire* was proper and did not indoctrinate the jury. As to the alleged discovery violations, the State explained that the woman identified as Bernie Spike was actually named Lisa Angelo. The State argued that it was not required to disclose Angelo's existence pretrial because the State did not know of her participation, and the undisclosed information was not favorable to defendant. The State made the same arguments as to the undisclosed work history of Slock.

¶ 25 The court found that the State had committed a discovery violation. However, the court explained that the only sanction requested by defendant was a new trial, and the court believed that awarding a new trial was not a reasonable sanction. In addition, the court found that the undisclosed information was not material. Had the evidence been material, the court would have granted a new trial. The court explained that if there was a lesser sanction available, it would have imposed it. The court also found that the prosecutor's questioning during *voir dire* was not improper.

¶ 26 At sentencing, the court found in aggravation that defendant's conduct threatened serious harm, defendant had a history of prior criminal activity, and the sentence was necessary to deter others from committing the same crime. The court found no factors in mitigation. The court found that consecutive sentences were necessary to protect the public from further criminal

conduct by defendant. In support of that finding, the court pointed to the evidence provided at sentencing that defendant had sold drugs on other occasions. The court found defendant eligible for extended-term sentencing, under which the maximum available sentence on each count was 14 years. The court sentenced defendant to consecutive sentences of seven years' imprisonment on each of the two counts. As a sanction in response to the State's discovery violations, the trial court denied the State's request to order restitution and a $2,000 fine.

¶ 27 Defendant filed a motion to reconsider sentence, arguing that the sentence imposed was excessive. The court denied the motion. Defendant appeals.

¶ 28 ANALYSIS

¶ 29 Defendant raises three issues on appeal: (1) the State committed discovery violations that entitle defendant to a new trial; (2) the State's questioning about reasonable doubt during *voir dire* entitle defendant to a new trial; and (3) the court abused its discretion when it imposed consecutive sentences.

¶ 30 A. Discovery Violations

¶ 31 Defendant claims that the State's failure to disclose both Slock's complete history as a paid informant and Angelo's presence during the first controlled buy violated Illinois Supreme Court Rule 412 (eff. Mar. 1, 2001) and the rule set forth in *Brady v. Maryland*, 373 U.S. 83 (1963). As a result of those violations, defendant asks this court to grant him a new trial. The State admits that it violated the court's discovery order but argues that the violations did not prejudice defendant, and, therefore, defendant is not entitled to relief.

¶ 32 Under Rule 412, a defendant is entitled to a new trial only if the discovery violation prejudiced defendant, and the trial court failed to eliminate the prejudice. *People v. Lovejoy*, 235 Ill. 2d 97 (2009). Similarly, a *Brady* violation occurs only where the undisclosed evidence was material, that is, where there was a reasonable probability that the result of the proceeding would

have been different had the evidence been disclosed. *United States v. Bagley*, 473 U.S. 667 (1985). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the proceeding. *Id.* For the following reasons, we find that the State's discovery violations prejudiced defendant; as a result, we grant defendant a new trial.

¶ 33 The failure to disclose Slock's complete work history hampered defendant's defense. Had that information been disclosed, defendant could have done more to attack Slock's credibility by focusing on his monetary motivation for working as an informant, undermining Slock's testimony that he worked as an informant to help eradicate the community's drug problem. Slock was the only witness who identified defendant as Elmo and the only witness who could testify defendant actually sold Slock the cocaine. Slock's credibility as a witness was therefore essential to the State's case, and the State's discovery violation prevented defendant from attacking that credibility.

¶ 34 The State's failure to disclose Angelo's existence is more troubling. The discovery order required the State to disclose the names of any informants "acting in such capacity in this case[.]" Angelo fell under that definition. According to Slock's testimony and Angelo's affidavit, Angelo contacted defendant on July 29, 2010, and arranged the meeting at RJ's Pub so that defendant could purchase the cocaine. She accompanied Slock in his vehicle to conduct the purchase. At RJ's Pub, she spoke with defendant and informed him that Slock was the interested buyer. Defendant then sold Slock cocaine. Based on that series of events, it is unclear how prosecutors could have concluded that Angelo was not acting as an informant, but rather was merely "along for the ride."

¶ 35 On appeal, the State concedes that prosecutors violated the discovery order by not disclosing Angelo's participation. However, the State argues that this court need not remedy the violation, because it did not result in prejudice. We disagree.

¶ 36 There is a reasonable probability that if the State had disclosed Angelo's participation in the first controlled buy that evidence would have changed the outcome of the case. The State's discovery violations prevented defendant from calling Angelo to testify about whether she was subjected to the same search procedures as Slock was. In the absence of her testimony, we have only Slock's assumption that Angelo was thoroughly searched. In addition, Angelo's affidavit describes a slightly different set of facts than those testified to by Slock, raising questions of Slock's credibility.

¶ 37 Furthermore, the testifying officers' failure to mention Angelo puts their credibility in question. Angelo was an essential part of the first buy, but her participation is conspicuously absent from the officers' narratives of that buy. In the midst of his account of Slock's appearance at the police station on July 29, Schwartz carefully recited in the passive voice that "there was a cellular phone call placed to" defendant, without mentioning that Angelo, not Slock, was the person who placed that call. Later, defense counsel questioned Schwartz, "[D]id [Slock] drive that vehicle by himself or was there another officer in the car with him?" Schwartz replied, "There was not an officer in the car with him." It appears from Schwartz's answers that he was intentionally avoiding any mention of Angelo.

¶ 38 When considering the cumulative effect of the State's discovery violations, we find a reasonable probability that, had the State complied with the discovery order, the result of the proceeding would have been different. Therefore, we find that the State's failures constituted both a *Brady* violation and a violation of Rule 412.

¶ 39 In addition, the court failed to cure the prejudice. The sanction it imposed—that defendant would not be required to pay restitution to the GPD or a $2,000 fine—did nothing to remedy the prejudice caused by the State's discovery violations.

¶ 40 Defendant is entitled to a new trial, as a result of the State's discovery violations. Because we grant defendant a new trial on this issue, we need not address defendant's argument about the prosecutor's statements during *voir dire*.

¶ 41 B. Sentencing

¶ 42 Although granting defendant a new trial disposes of his sentencing challenge, we choose to address the issue as it may arise again on remand.

¶ 43 A court has the discretion to impose consecutive sentences where "it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant[.]" 730 ILCS 5/5-8-4(c)(1) (West 2010). A court's decision to impose consecutive sentences will not be reversed absent an abuse of discretion. *People v. Couch*, 387 Ill. App. 3d 437 (2008).

¶ 44 In the present case, the court found that defendant had sold drugs on other occasions, and consecutive sentences were therefore necessary to protect the public from defendant's drug dealing. We find that the court's decision was an abuse of discretion because there was nothing to distinguish defendant from any other defendant convicted of the same offenses. The fact that defendant was a drug dealer is not enough, in itself, to justify consecutive sentences. If it were, then consecutive sentences could always be imposed for convictions of unlawful delivery. Instead, consecutive sentences should be imposed sparingly, and only where the circumstances of the particular offense and the character of the defendant demand them. *People v. Clark*, 278 Ill. App. 3d 996 (1996). Here, where defendant had a nonviolent history, there was nothing to distinguish defendant from others convicted of the same offense. The court therefore abused its discretion in imposing consecutive sentences.

¶ 45 CONCLUSION

¶ 46 The judgment of the circuit court of Knox County is reversed. The cause is remanded for further proceedings.

¶ 47 Reversed and remanded.

¶ 48 JUSTICE SCHMIDT, dissenting.

¶ 49 The defendant argued, and the State conceded, that there were pretrial discovery violations. However, the majority's decision ignores the language in Illinois Supreme Court Rule 412 (eff. March 1, 2001) and *Brady v. Maryland*, 373 U.S. 83 (1963), as well as other significant facts that make clear defendant is not entitled to a new trial. I, therefore, respectfully dissent.

> "It is well established that the failure to comply with discovery rules does not require a new trial in every instance. [Citations.] A new trial should only be granted if defendant, who bears the burden of proof, demonstrates that he was prejudiced by the discovery violation and the trial court failed to eliminate the prejudice. [Citations.] Several factors are considered when determining whether a new trial is warranted, including the closeness of the evidence, the strength of the undisclosed evidence, and the likelihood that prior notice would have helped the defense discredit the evidence. [Citation.] We also consider the remedies sought by defendant, such as whether defendant requested a continuance, when determining if actual surprise or prejudice existed. [Citations.]" *People v. Lovejoy*, 235 Ill. 2d 97, 120 (2009).

¶ 50 Under *Brady*, the State has a constitutional obligation to disclose requested evidence that is both favorable to the accused and material to guilt or punishment. *Brady v. Maryland*, 373 U.S. at 87. A *Brady* violation occurs only where the undisclosed evidence was material, *i.e.* where there was a reasonable probability that the result of the proceeding would have been

different had the evidence been disclosed. *United States v. Bagley*, 473 U.S. 667, 682 (1985); *People v. Rish*, 344 Ill. App. 3d 1105, 1111 (2003). The defendant did not meet his burden of proving the reasonable probability that the outcome would have been different had the evidence been disclosed.

¶ 51 As for the State's failure to disclose Angelo's participation in the first buy, the majority disregards the fact that Angelo was not present at the second buy. The jury was, therefore, presented with two separate instances where Slock testified it was defendant who sold him the crack cocaine, and the second had nothing whatsoever to do with Angelo. The majority also points to Slock's and Angelo's conflicting narrative as to how the first controlled buy was initiated. While their accounts do differ slightly as to who made the first phone call to defendant and where in the vehicle the passengers were located, one thing that remains constant is both Slock's and Angelo's statements indicate that it was defendant who sold Slock the contraband.

¶ 52 Moreover, Angelo's testimony would not bolster defendant's case, and is perhaps even inculpatory. Under Angelo's version of events, defendant approached her on the passenger side of the vehicle first, and she then informed him that it was "the guy in the backseat, and he served him." If this is actually how the event transpired, then defendant was well aware of an additional female passenger in the car. Even if it happened as Slock described it, where defendant approached the driver side of the vehicle and dealt with Slock directly, it strains credulity to think that defendant was not aware of the other passengers in the vehicle. At trial, the court offered defense counsel a recess for the purpose of pursuing an investigation regarding the presence of a second confidential source in the car. Counsel declined, instead highlighting the officer’s failure to mention this individual in their earlier testimony and moving for a mistrial. The "preferred sanction is a recess or continuance if the granting thereof would be effective to protect the defendant from surprise and prejudice." *People v. Winfield*, 113 Ill. App. 3d 818, 837

(1983). "A reviewing court will not reverse the trial court's exercise of its discretion in granting a particular sanction in the absence of a showing of surprise or prejudice to the defendant." *People v. Loggins*, 134 Ill. App. 3d 684, 691 (1985). Defendant had the opportunity to question officers about Angelo's presence at the first controlled buy, but opted not to do so. Defendant was not subject to undue surprise or prejudice.

¶ 53 It is similarly difficult to imagine how the State's disclosure of Slock's additional work as a confidential informant for other law enforcement agencies would have changed the outcome of the proceedings. Testimony elicited by the State made clear that Slock was a paid informant. Galesburg police detective Schwartz testified that Slock had worked intermittently as a paid informant for the GPD for the past 10 years. Slock was compensated for both of the controlled buys at issue here, totaling approximately $200. Any additional testimony regarding Slock getting paid for his services would have been cumulative at best; it was clear that Slock, at least in this instance, did not perform the transactions out of the goodness of his heart. The jury had ample information before it to make a credibility determination regarding Slock's motivation.

¶ 54 Having reversed the trial court on the discovery violations issue, the majority declined to address defendant's arguments regarding the prosecutor's statements during *voir dire*. I address them here briefly, only to confirm that defendant's conviction should be affirmed. As in *People v. Rinehart*, 2012 IL 111719, the hypothetical questions asked by the prosecutor in this instance were not "[s]pecific questions tailored to the facts of the case and intended to serve as 'preliminary final argument.' " *Rinehart*, ¶ 17. Instead, they went to whether or not the jury could understand and distinguish the difference between the quality versus the quantity of evidence.

¶ 55 Defendant further argued that the prosecutor's attempt to define reasonable doubt during *voir dire* constituted reversible error. While Illinois law is clear that the concept of reasonable

doubt needs no definition (*People v. Cagle*, 41 Ill. 2d 528 (1969)), it does not follow that all prosecutorial remarks regarding reasonable doubt warrant reversal. In both cases cited to by defendant, *People v. Edwards*, 55 Ill. 2d 25, 35 (1973), and *People v. Eddington*, 129 Ill. App. 3d 745 (1984), the prosecution made comments similar to those made here. Specifically, that "beyond all doubt" is not the same as "reasonableness" and that a defendant can be convicted if there are some doubts, so long as those doubts are not reasonable ones. In both *Edwards* and *Eddington*, the court found that while the remarks were improper, no reversible error resulted. *Edwards*, 55 Ill. 2d at 35; *Eddington*, 129 Ill. App. 3d at 781.

¶ 56 Finally, as to defendant's challenge to the trial court's imposition of consecutive seven-year sentences, I find the majority's conclusion that the court abused its discretion to be based on factual inaccuracies. It notes that "[t]he fact that defendant was a drug dealer is not enough, in itself, to justify consecutive sentences. If it were, then consecutive sentences could always be imposed for convictions of unlawful delivery." *Supra* ¶ 44. This statement is simply disingenuous. The trial court did not impose consecutive sentences simply because defendant stood convicted of dealing drugs. Defendant had a number of drug-related felonies, and there was evidence presented in aggravation that he continued to deal drugs in the community. As the majority recognizes, a trial court has the discretion to issue consecutive sentences if it is of the opinion that it is required to protect the public from further criminal conduct of the defendant. S*upra* ¶ 43. The trial court was clearly of this opinion. Not just because defendant is a drug dealer, but because he is a drug dealer that simply will not quit dealing drugs, notwithstanding prior convictions.

¶ 57 Additionally, the issue was forfeited by defendant's failure to raise it in a motion to reconsider sentence. 730 ILCS 5/5-8-1(c) (West 2010).