2021 IL App (1st) 200977-U

FIFTH DIVISION
Order filed: December 30, 2021

No. 1-20-0977

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 18 CR 13485
	)	
AQUAN ECFORD,	)	Honorable
	)	Michele M. Pitman,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Delort and Justice Cunningham concurred in the judgment.

ORDER

¶ 1 *Held*: We affirmed the judgment of the circuit court finding the defendant guilty of home invasion and sentencing the defendant to eight years' imprisonment, over his arguments that: the State failed to prove him guilty beyond a reasonable doubt; the trial court erred in admitting evidence of a letter written by the defendant because it contained "other crimes" evidence; and the defendant's sentence was excessive.

¶ 2 The defendant, Aquan Ecford, appeals from the judgment of the circuit court finding him guilty of home invasion and sentencing him to eight years' incarceration. The defendant argues

that: the State failed to prove him guilty beyond a reasonable doubt; the circuit court committed plain error when it admitted a letter written by the defendant because the letter contained "other crimes" evidence; and his sentence is excessive. For the reasons that follow, we affirm.

¶ 3 On September 25, 2018, the grand jury indicted the defendant for attempted first degree murder (720 ILCS 5/8-4(a), 9-1(a)(1) (West 2018)), home invasion (720 ILCS 5/19-6(a)(2) (West 2018)), kidnapping (720 ILCS 5/10-1(a)(1) (West 2018)), and unlawful restraint (720 ILCS 5/10-3(a) (West 2018)), arising from an incident occurring on September 2, 2018.

¶ 4 The following factual recitation is taken from the pleadings of record and the evidence adduced in the defendant's trial.

¶ 5 The circuit court commenced a bench trial beginning on October 9, 2019. Before the court heard evidence, defense counsel objected to the introduction of certain letters the defendant wrote to the victim, stating: "I would have an objection to anything that again refers to [the defendant] in other crimes evidence that they intend to put in." The assistant State's Attorney responded: "There is one section in one of the letters that references another crime. The State would propose – I will have that portion redacted." The circuit court accepted the State's proposal stating:

> "Just redact any other crimes. See if you can agree upon that. It's a bench trial anyway, counsel. The Court certainly has been doing this long enough to know to disregard anything that's not proper evidence."

¶ 6 The first witness called by the State was Willie Cohen. He testified that he was a security guard and a friend of the victim, Sabrenia Trueblood. Cohen stated that, on September 2, 2018, at approximately 10 p.m., he was speaking with Trueblood on the telephone when he heard knocking on Trueblood's window three times. The second time he heard knocking it was harder than the

first; and the third was "quite hard." When the phone call ended, Cohen tried unsuccessfully to call Trueblood back. He then received a text from Trueblood asking him to call the police. Cohen called the police and provided them with Trueblood's address. According to Cohen, he was familiar with the address and had visited the address two days prior to the incident. He testified that Trueblood and her three children lived there and no one else was living at the address when he visited. On cross-examination, Cohen admitted that, when he visited Trueblood, he did not spend the night with her and did not know who did.

¶ 7 Trueblood testified that, on September 2, 2018, she lived on Rocket Circle in Park Forest, Illinois. She had lived there for one and one-half years. She stated that she rented the home with her ex-fiancé and that both were on the lease. According to Trueblood, her ex-fiancé had never moved into that location. The home was a single-family home with two entrances, one in the front of the house that leads to the living room and one in the back that leads to the kitchen. The door to the kitchen leads to a sunroom which has a door leading to the back yard.

¶ 8 Trueblood identified the defendant in court and stated that, in September 2018, they were in a dating relationship. She testified that the defendant did not live with her, his name was not on the lease to her home, and he did not have a key. According to Trueblood, between August and September 2018, the defendant had spent three nights at her home. She testified that the defendant lived on Suwanee Street in Park Forest and that she had been to his home.

¶ 9 Trueblood testified that, on September 1, 2018, the defendant spent the night at her home because he had a job interview the next day. The defendant brought a backpack with him. The previous week, the defendant left his "interview outfit," a pair of khakis, a button up shirt, and a

pair of shoes at her home. The defendant had no other property or clothing at her house and did not receive mail at that location.

¶ 10 Trueblood testified that the defendant woke up at her house in the morning of September 2, 2018. She stated that the defendant wanted to go to his house for a barbecue that his aunt was preparing. According to Trueblood, she initially did not want to go, but later agreed. Trueblood's daughter drove her and the defendant to the defendant's house on Suwanee Street at approximately 10 a.m. After they arrived, the defendant started drinking. At some point, the defendant left the house. Trueblood testified that, at approximately 5 p.m., she took an Uber to pick the defendant up in Richton Park, and they returned to the house on Suwanee Street. When they returned, the defendant continued drinking. Trueblood stated that she decided to leave because the defendant's behavior was "erratic." According to Trueblood, she told the defendant he could not come to her house because he was drunk. The defendant's aunt took Trueblood home. Trueblood testified that, when she got home, she did not notice any damage to her doors or windows. She recounted that, when she got home, she went into the kitchen, turned off the only light that was on, and then went to the bedroom and called Cohen. As she was speaking to Cohen, she heard a car door slam. She looked out and saw the defendant walking toward the front door. According to Trueblood, the defendant rang the doorbell and then started walking around the house pounding on the windows. Trueblood hung up the phone and heard glass breaking in the kitchen. When she went to the kitchen, she saw the defendant sitting in the sunroom smoking. The defendant then reached in through a broken window, opened the door, and entered the house. Trueblood testified that he sat down in a chair and began cursing at her and asking for a towel because his arm was bleeding. According to Trueblood, she was frightened and went to get a towel. As she was getting the towel,

Trueblood saw her car pulling into the driveway with her children inside. She told her children to leave and go to her parent's house. The children left, and she gave the defendant a towel.

¶ 11 Trueblood testified that the defendant continued cursing and asked for his property. Trueblood walked down the hall to get the defendant's backpack and clothes and sent a text message to Cohen, asking him to call 911 for her. Trueblood stated that, when she retrieved the defendant's backpack and clothing, she placed them on her couch. She testified that those items were the only belongings the defendant had at her house.

¶ 12 According to Trueblood, the defendant asked her to drive him to the hospital. When she told him her car was not there, the defendant became upset and struck her in the face with a closed fist. She stated that he struck her five more times and placed a hand on her throat. He said that he was going to kill her. Trueblood testified that she could not run because she was suffering from two bulging discs in her lower back. She stated that, after the defendant pushed her head into the wall, he suddenly stopped and said he was leaving. The defendant then opened the front door and walked out, but then walked back into the house. The defendant said, "nobody is here to help you," and began striking Trueblood in the head again. According to Trueblood, the defendant struck her five more times and again said he was going to kill her. The defendant then stopped again and left the house through the front door. Trueblood could not see where the defendant had gone, but when she heard a noise at the back door, she left the house, hid, and called 911.

¶ 13 Trueblood testified that, as a result of the incident, she suffered swelling, bruising and cuts on her face and forehead. She identified photographs of her injuries taken by the police, and the photographs were admitted into evidence.

¶ 14 Trueblood identified three letters she received from the defendant after the incident. Defense counsel objected, arguing that the letters would be proof of a violation of an order of protection. The State responded that the letters were not being admitted as other crimes evidence, but instead to show consciousness of guilt. The court overruled the objection, holding that it would not consider any other crimes evidence. The letters were admitted into evidence.

¶ 15 The State asked Trueblood to read a letter postmarked September 10, 2018, which states:

> "Hey baby, words can't explain how sorry I am. Baby I don't remember anything after you picked me up from Richton Park Police Station let alone the reason you left me at my grandmother's house. I don't remember how I got to the house. I totally blacked out and don't remember anything. There is no way if I was in my right mind, I would have hurt myself let alone you.
>
> I drunk the whole bottle of 5th of Hennessy while you was [*sic*] doing your homework and not to mention that I was still drunk from the night before. There's no excuse for my actions because I came into you and your kids' lives in order to provide and protect.
>
> I am not mad you; however, I am mad and disgusted at myself for allowing alcohol to change me into a totally different person and hurting someone I love."

The letter also states: "I blacked out. I didn't even know that I came to your house on the 13th and fell out on the floor and Park Forest took me to my grandma house." The letter asked Trueblood to "drop the charges." Trueblood testified that she received a second letter dated September 28, 2018, which states: "I take full responsibility for my actions, and I refuse to put myself/you through anything like this again." The letter concluded "If my grandma hasn't come to get my clothes,

shoes, bag and clippers, can you please take them to her when you can." Trueblood testified that she received a third letter dated September 26, 2018. In that letter, the defendant apologized, asked forgiveness, and promised to stop drinking. The letter also stated: "if you haven't already gave my bag, clippers and clothes to my grandma because of your surgery, I understand." On cross-examination, Trueblood admitted that the letters were not signed.

¶ 16 Brian Harrison, an Oak Lawn Police Officer, testified that, in 2018, he was working for the Park Forest Police Department. At 10:14 p.m. on September 2, 2018, he was dispatched to a location on Rocket Circle in Park Forest. He arrived there at 10:19 and saw a woman leave the house and run across the street. A few moments later, he saw the defendant walk out the same door. The defendant had a bandage around his hand and started to walk away. Officer Harrison asked the defendant where he was going, and the defendant said that he was "going to walk home."

¶ 17 John Deceault, a Park Forest Police Sergeant, testified that, on September 2, 2018, he responded to an incident on Rocket Circle. When he arrived, there were other officers on the scene. Sergeant Deceault testified that he spoke to the defendant, who said that he "he just wanted to go home." Sergeant Deceault stated that he had worked in Park Forest as a police officer for 12 years and had been to the defendant's residence as part of his duties. According to Sergeant Deceault, the defendant's residence was on Suwanee Street and not at the Rocket Circle address. He testified that the defendant was not a peace officer. Sergeant Deceault stated that, when he spoke to Trueblood at the scene, she had injuries on her face and forehead which he photographed. Sergeant Deceault also stated that he observed that the glass was broken on the rear door of Trueblood's house and there was blood on the ground. On cross-examination, Sergeant Deceault admitted that

he did not know where the defendant spent his nights, whether he was in a relationship with Trueblood, or whether he was staying with a friend or girlfriend.

¶ 18 Jonathan Garrity, a Park Forest Police Detective, testified that he investigated the incident and was familiar with the defendant. According to Detective Garrity, the defendant resided on Suwanee Street. He stated that he had observed the defendant at that address on five occasions. The last time Detective Garrity observed the defendant at the Suwanee Street location was on August 13, 2018.

¶ 19 Following Detective Garrity's testimony, the State rested, and the defendant moved for a directed finding. The circuit court denied the motion.

¶ 20 The defense then called Rosetta Halfacre, the defendant's maternal grandmother, as a witness. Halfacre testified that, after Labor Day in 2018, she went to Trueblood's home, and Trueblood handed her a corrugated box approximately three feet high and four feet wide. Halfacre saw a shirt on the top of the box but did not go through the whole box. On cross-examination, Halfacre stated that she carried the box to her car and took it to her home. Halfacre admitted that she did not go through the box.

¶ 21 The defendant waived his right to testify and rested. After the parties presented closing arguments, the trial court found the defendant guilty of home invasion and not guilty on the remaining counts.

¶ 22 The defendant filed a motion to reconsider and an amended motion to reconsider. The defendant argued, *inter alia*¸ that the State failed to prove that he knew or had reason to know that one or more persons were present when he entered the dwelling, and that he knew that he did not

have authority to enter Trueblood's home. The circuit court denied the defendant's motion to reconsider.

¶ 23 At the sentencing hearing, the State did not present any witnesses in aggravation. The defendant presented the testimony of Halfacre. She testified that the defendant had three siblings two sisters and one brother. Halfacre opined that he had a close relationship with his siblings. The defendant also had three children and had a "very close" relationship with them.

¶ 24 The State argued that there was no question the defendant has a "drinking problem." The State further argued that a presentence investigation revealed that the defendant had a history of seven prior felony convictions. The defendant argued that the circuit court should treat his intoxication as mitigation. The defendant also argued that the letters sent to Trueblood showed remorse. Defense counsel noted that the defendant was engaged in the behavioral and addictions program in the county jail and asserted that the defendant's prior convictions were also alcohol related, including two DUIs (driving under the influence) and driving on a revoked license which stemmed from the DUIs.

¶ 25 The defendant spoke in allocution, stating "I take full responsibility for my actions." The defendant noted that he had been involved in "AA, addiction and behavior classes, and the Larry's Barber College program." The defendant asked to be "mandated to an institution where I can continued [*sic*] on the road to sobriety."

¶ 26 The trial court stated that it had considered all of the factors in aggravation and mitigation and the arguments of the parties. The court then sentenced the defendant to eight years' incarceration. The defendant moved for reconsideration of his sentence, arguing that the trial court improperly considered elements of the offense in aggravation. The State responded that, in

sentencing the defendant, the court had merely discussed the facts and circumstances of the case. The trial court denied the motion, and this appeal followed.

¶ 27 The defendant first contends that the State failed to prove him guilty beyond a reasonable doubt. When a criminal conviction is challenged based on insufficient evidence, we will apply the *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979) standard. *People v. Casler*, 2020 IL 125117, ¶ 60. Considering all of the evidence in the light most favorable to the prosecution, we must determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Id.*

¶ 28 The State has the burden of proving each element of an offense beyond a reasonable doubt. U.S. Const., amend. XIV; Ill. Const. 1970 art I, sec 2; *Jackson*, 443 U.S. at 316. The home invasion statute provides, in relevant part, that:

> "(a) A person who is not a peace officer acting in the line of duty commits home invasion when without authority he or she knowingly enters the dwelling place of another when he or she knows or has reason to know that one or more persons is present *** and
>
> * * *
>
> (2) Intentionally causes any injury, except as provided in subsection (a)(5), to any person or persons within the dwelling place." 720 ILCS 5/19-6(a)(2) (West 2018).

¶ 29 The defendant does not contend that he was peace officer or that he did not intentionally injure a person within a dwelling place. Instead, the defendant argues that the house on Rocket Circle was his own dwelling, was not the "dwelling place of another" and that he did not know or have reason to know that Trueblood was present in the house when he entered. We address each argument in turn.

¶ 30 First, we note that the State presented ample evidence that the Rocket Circle house was not the defendant's residence. First and most importantly, Trueblood testified that the defendant did not reside there, did not have a key, had not spent more than three nights at her home in the month prior to September 2, 2018, and had left only a backpack and a single change of clothes at the house. Two police officers testified that they were familiar with the defendant and knew that he resided on Suwanee Street. Moreover, the defendant himself said that he was walking "home" as he tried to leave the Rocket Circle address, and in his letters to Trueblood, he referred to the house on Rocket Circle as "your house."

¶ 31 Relying upon *People v. Delacruz*, 352 Ill. App. 3d 801, 811 (2004), the defendant argues that circumstantial evidence can create a reasonable doubt as to whether a location is the "dwelling of another." In this case, the defendant asks us to infer, solely based upon the size of the box containing his possessions retrieved by Halfacre from Trueblood's home, that he was more than an occasional social guest at the home. We disagree. Trueblood testified repeatedly that the only possessions the defendant left at her home were a backpack and a single change of clothes. Halfacre testified to the size of the box which Trueblood gave her but admitted that she never looked in the box to determine its contents. Therefore, we cannot conclude that there was sufficient circumstantial evidence to establish a reasonable doubt about the defendant's status as a resident of the Rocket Circle house.

¶ 32 Moreover, we find *Delacruz* inapposite. In that case, it was undisputed that the defendant had previously been a resident of the apartment, had previously paid the rent, and had "many possessions, including some furniture, tools, and clothing in the apartment." Moreover, although the victim testified that the defendant had moved out, the prosecution witnesses' testimony was

conflicting as to whether the defendant was living in the apartment on the date of the incident. Here, the only circumstantial evidence that the defendant resided at Rocket Circle was the presence of a backpack and a change of clothes. There was no evidence that the defendant had ever spent more than a single night at a time at the house, paid rent, or kept furniture, tools or more than a single change of clothes in the home.

¶ 33 The defendant also argues that there was insufficient evidence to prove that he knew or should have known that Trueblood was present in the house when he entered. The defendant argues that the house was dark and there was no car present in the driveway when he arrived at Rocket Circle. The presence of a car in a driveway and lights on in a house is circumstantial evidence that has been used to demonstrate that a defendant should have known people were present in dwelling. See *People v. Redisi*, 172 Ill. App. 3d 1003, 1011 (1988). However, the absence of such circumstantial evidence does not change the outcome in this case because there was ample direct evidence that the defendant knew Trueblood was home. First, when leaving the Suwanee Street location, she told the defendant that she was going home and asked him not to come to the house because he was drunk. Second, and more importantly, Trueblood testified that, at the time the defendant reached through the broken window on the backdoor to open it, she was standing in the kitchen and could see the defendant through the window. In light of this evidence, we believe that a rational trier of fact could find both that the defendant had notice that Trueblood would be in the house and that he could easily have seen her at the time he completed his entry into the house.

¶ 34 Taking the evidence in the light most favorable to the prosecution, we cannot conclude that no reasonable fact finder would have found the defendant guilty of home invasion beyond a

reasonable doubt. *See Casler*, 2020 IL 125117, ¶ 60. Therefore, we cannot find that the State failed to prove beyond a reasonable doubt any element of the offense of home invasion.

¶ 35 The defendant next contends that the trial court abused its discretion when it admitted "other crimes" evidence. The defendant concedes that he failed to preserve this issue for review because, although he objected at trial, he failed to raise the issue in his posttrial motion. See *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). The defendant argues, however, that we should review the issue as plain error. Plain error occurs where the trial court has committed a clear or obvious error and (1) the evidence is closely balance or (2) the alleged error is so substantial that it should be addressed regardless of the closeness of the evidence. See *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). The first step in the plain-error analysis is to determine whether there was any error at all. See *People v. Tolliver*, 2021 IL App (1st) 190129, ¶ 36. If there is no error, there can be no plain error. *Id.*

¶ 36 The admission of other crimes evidence endangers a fair trial due to the possibility that a defendant might be convicted because he is a " 'bad person that deserves punishment' " rather than because the elements of the crime have been proven. *People v. Jackson*¸2017 IL App (1st) 142879, ¶ 71 (quoting *People v. Placek*, 184 Ill. 2d. 370, 385 (1998)). Other crimes evidence may be admissible, however, when it is relevant to establish any material question other than the defendant's propensity to commit a crime. *Placek*, 184 Ill. 2d at 385. The rules of admissibility of evidence are the same whether a trial is conducted with or without a jury. *See People v. Naylor*, 229 Ill. 2d 584, 603 (2008). However, when reviewing a bench trial, a reviewing court presumes that the trial court considered only admissible evidence. *Id.*

¶ 37 The defendant argues that the admission of a single sentence in the letters allegedly sent by him from jail to Trueblood constituted error. The disputed sentence reads: "I didn't even know that I came to your house on the 13th and fell out on the floor and Park Forest took me to my grandma house." The defendant argues that this sentence was not relevant to his guilt. We disagree. The phrase "your house" was probative of the issue of whether the house on Rocket Circle was the "dwelling of another" within the meaning of the home invasion statute. Moreover, the trial court indicated twice that it would not consider anything in the letters as improper other crimes evidence. See *Placek*, 184 Ill. 2d at 385. Therefore, we find no error in the admission of the letters including the disputed sentence.

¶ 38 The defendant argues that the presumption that a trial court only considers proper evidence is rebutted where an objection is made and overruled. See *Naylor*, 229 Ill. 2d at 603-04 That is not the case here. The defendant objected to admission of the letters in their entirety, and the trial court admitted them and specifically stated it would not consider the letters for any improper purpose. We find nothing in the record that affirmatively shows the contrary. Therefore, because there was no error, there can be no plain error. See *Tolliver*, 2021 IL App (1st) 190129, ¶ 36.

¶ 39 The defendant finally contends that his sentence was excessive. The circuit court has wide latitude in sentencing a defendant to any term withing the statutory range, as long as the court does not consider incompetent evidence, improper aggravating factors, or ignore pertinent mitigating factors. *People v. Cook*, 2021 IL App (3d) 190243, ¶ 38. When sentencing a criminal defendant, a trial court must consider the nature of the crime, the public's protection, deterrence, punishment, and the defendant's rehabilitative potential. *Id.* (citing *People v. Kozlow*, 301 Ill. App. 3d 1, 8 (1998)). We review a sentencing decision for an abuse of discretion. *See People v. Alexander*, 239

Ill. 2d 205, 212 (2010). "A sentence will be deemed an abuse of discretion where the sentence is 'greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.' " *Id.* (quoting *People v. Stacey*, 193 Ill. 2d 203, 210 (2000)).

¶ 40 The defendant argues that his eight-year sentence was excessive because he had strong family support, showed remorse for the incident, had worked to address his struggles with alcoholism, and showed strong rehabilitative potential. However, we find no abuse of discretion in the sentence. First, we note that the defendant's sentence was only 2 years above the minimum and 22 years below the maximum. See 730 ILCS 5/5-4.5-25 (West 2018) (the sentencing range for a Class X felony is 6 to 30 years' incarceration). Second, the most important factor in sentencing is the seriousness of the offense. See *People v. Murray*, 2020 IL App (3d) 180759, ¶ 30. Here, the defendant broke into the home of a woman he had been dating for a short period of time, a woman who he knew would be hindered by a back injury if she attempted to flee or defend herself. He threatened her life and repeatedly beat her about the head and face. In light of this unprovoked and vicious attack, we cannot find that the relatively short sentence imposed by the circuit court was an abuse of discretion.

¶ 41 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 42 Affirmed.