

attributable to his alcoholism. By the date of the instant offenses, defendant had stopped drinking, was married, and was earning more than \$25 an hour at his job. On June 11, 2009, defendant was stopped by police in Trenton because he was driving a truck with a loud exhaust system. The arresting officer checked the registration and found that the truck was registered to defendant, who had a revoked driver's license.

¶ 5 During the traffic stop, defendant identified himself as Thomas S. Hock, defendant's brother. Defendant continued to maintain he was Thomas Hock until he was placed under arrest, at which time he admitted he was in fact Gerald Hock. Defendant was then charged with driving while license revoked and obstructing justice. This was defendant's seventh conviction for driving while license revoked.

¶ 6 On November 5, 2009, defendant entered an open plea on both charges. On January 13, 2010, a sentencing hearing was conducted during which the State presented evidence of an outstanding petition to revoke probation from 1995 and evidence from another police officer that this was not the first time defendant had attempted to identify himself as another family member in an attempt to avoid prosecution. The State pointed out that the presentence investigation (PSI) showed that defendant has been assigned some form of court-monitored sentence, such as court supervision, conditional discharge, or probation, on approximately 17 other occasions. The State asked that defendant be sentenced to three years in the Department and fined \$1,500. The State specifically asked that defendant's sentences "be entered concurrently as to these two counts."

¶ 7 After hearing all the evidence, the trial court imposed a sentence of three years for driving while license revoked and two years for obstructing justice and ordered the sentences to be served consecutively. Defendant filed a motion to reconsider the consecutive nature of the sentences, arguing that the public did not need to be protected from him and his driving habits, because he had stopped drinking. After a hearing, the trial court denied

defendant's motion, specifically stating as follows:

"[Defendant] has a lengthy criminal and traffic history, and he has a history of offenses that interfere with the system, with the justice system, by resisting or obstructing a peace officer, making false reports, pretty much the same situation we're dealing with here today. I would be happy to reconsider his sentence, but I don't think that is really what you want me to do. I think what you are wanting me to do is reduce the sentence, and I'm not going to do that. The motion is denied."

Defendant filed a timely notice of appeal.

¶ 8

ANALYSIS

¶ 9 The issue on appeal is whether the trial court abused its discretion in sentencing defendant to consecutive-term sentences. Defendant contends there was nothing about the two offenses or his background which indicates that the public needs to be protected from him, and, therefore, the consecutive sentences are inappropriate. Defendant asks us to modify his sentences and order them to run concurrently rather than consecutively. The State replies that given defendant's extensive criminal history, defendant's obliviousness to the fact that he could be sentenced to prison for his criminal behavior, and the probability of defendant's recidivism, the trial court properly imposed consecutive sentences.

¶ 10 Section 5-8-4 of the Unified Code of Corrections controls imposition of consecutive sentences and at the time relevant here provided in pertinent part as follows:

"(c) CONSECUTIVE TERMS; PERMISSIVE. The court may impose consecutive sentences in any of the following circumstances:

(1) If, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the

record." 730 ILCS 5/5-8-4(c)(1) (West 2008).

The imposition of a sentence and whether it is to run consecutively or concurrently is within the trial court's discretion. *People v. O'Neal*, 125 Ill. 2d 291, 297-98, 531 N.E.2d 366, 368 (1988).

¶ 11 In order to impose a consecutive sentence, the record must show that the "sentencing court is of the opinion that a consecutive term is necessary for the protection of the public." *People v. Pittman*, 93 Ill. 2d 169, 178, 442 N.E.2d 836, 840 (1982). We are aware that the trial judge is normally best situated to tailor a sentence (*People v. Hicks*, 101 Ill. 2d 366, 375, 462 N.E.2d 473, 477 (1984)), but we are also aware that our supreme court has directed that consecutive sentences should be imposed "sparingly." *O'Neal*, 125 Ill. 2d at 298, 531 N.E.2d at 369.

¶ 12 In *O'Neal*, the supreme court affirmed the First District's order modifying the defendant's sentences for murder, rape, and aggravated kidnapping to run concurrently rather than consecutively. The court noted as reasons for modifying the sentence that defendant was only 19, he had a limited education, he had overcome a drug problem, and his criminal record consisted of only one conviction, for which he received probation, which was subsequently revoked. The court further noted that the defendant tried to escape his accomplice's oppressive control, and even though defendant shot and killed his accomplice, he did not harm their kidnapping victim. *O'Neal*, 125 Ill. 2d at 300, 531 N.E.2d at 369-70.

¶ 13 Here, there is no doubt that defendant has a history of criminality. However, it is also clear that such criminality was due mainly to his alcoholism. Defendant's most recent crimes are all related to driving while his license was revoked. His license was revoked due to multiple convictions for driving under the influence. There is nothing in the statutory sentencing scheme that allows a trial court to sentence a defendant more harshly to make up for sentencing leniency in the past.

¶ 14 In *People v. Carter*, 272 Ill. App. 3d 809, 651 N.E.2d 248 (1995), and *People v. Haun*, 221 Ill. App. 3d 164, 581 N.E.2d 864 (1991), imposition of consecutive sentences was found to be within the bounds of the trial courts' discretion in large part because the crimes were sexual in nature, the victims were of a young age, and the defendants exercised care and control over the victims. Clearly, in those types of cases the public needs to be protected from the defendant, making consecutive sentences appropriate. However, in the instant case, where the State specifically requested that defendant's sentences run concurrently, we fail to find a sufficient basis in the record to show that defendant is a danger to the public, which is necessary for the imposition of consecutive sentences. There being neither a basis in the record nor a statutory mandate for consecutive sentences, we find that the trial court abused its discretion. Accordingly, we hereby modify the sentences imposed by the trial court and order that they run concurrently rather than consecutively.

¶ 15 For the foregoing reasons, the order of the circuit court of Clinton County sentencing defendant to consecutive sentences is modified to the extent that defendant's sentences are to run concurrently rather than consecutively.

¶ 16 Affirmed as modified.