2014 IL App (2d) 121375-U
No. 2-12-1375
Order filed September 26, 2014

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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. 11-CF-2250
AKUA LAVOW,	)	Honorable Kathryn E. Creswell,
Defendant-Appellant.	)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* (1) The State proved defendant guilty beyond a reasonable doubt of aggravated battery, specifically that he inflicted "bodily harm," which the trial court could infer from the victim's testimony that defendant hit him in the chest hard enough to "practically" take his breath away; (2) the trial court did not abuse its discretion in sentencing defendant to 15 years' imprisonment (on a 6-to-30 range) for burglary: the mitigating factors, which the court expressly or presumably considered, were weak, and the aggravating factors, most notably defendant's criminal history and poor rehabilitative prospects, were strong.

¶ 2 After a bench trial, defendant, Akua Lavow, was convicted of burglary (720 ILCS 5/19-1(a) (West 2010)); retail theft (720 ILCS 5/16A-3(a) (West 2010)); and aggravated battery based on causing bodily harm to a merchant (720 ILCS 5/12-3(a)(1), 3.05(d)(9) (West 2010)). He was

sentenced to concurrent prison terms of 15 years for burglary and 5 years for each of the other offenses. Although the burglary was a Class 2 offense (see 720 ILCS 5/19-1(b) (West 2010)), defendant's prior convictions required a Class X sentence (see 730 ILCS 5/5-4.5-95(a)(1) (West 2010)). The trial court denied defendant's motion to reconsider sentence. He appealed.

¶ 3 On appeal, defendant contends that (1) he was not proved guilty beyond a reasonable doubt of aggravated battery, as there was insufficient evidence that the victim suffered "bodily harm" (720 ILCS 5/12-3(a)(1) (West 2010)); and (2) the trial court abused its discretion in sentencing him to 15 years' imprisonment for burglary. We affirm.

¶ 4 We turn to the pertinent trial evidence. The State's first witness, Rooail Jacob, testified as follows. On September 23, 2011, he was the manager of the Best Buy in Downers Grove. The store sold returned iPads. These "open-box" iPads were on display that day. At about 4:30 p.m., defendant entered the store. He was wearing a heavy coat. Jacob recognized him because, in April 2011, defendant had taken video games into the men's room and attempted to disable the loss-prevention sensors by covering them in aluminum foil. On that occasion, Jacob tried to stop defendant at the exit door, but defendant escaped and was not apprehended.

¶ 5 Jacob testified that, on September 23, 2011, defendant took two open-box iPads and went to the men's room. Jacob followed him. In the men's room, defendant entered a stall, and Jacob heard aluminum foil crinkling within. Defendant was doing "the exact same thing" he had done in April. Jacob left the men's room and watched a security camera. Defendant exited the men's room and walked to the front of the store. Entering the vestibule, Jacob saw defendant pass the theft-detection devices, his left hand tucked under his coat.

¶ 6 Jacob testified that he told defendant to stop. Defendant cursed and told him to get out of his way. Jacob said that he would not. Defendant "ended up taking his elbow and directly

hitting [Jacob] on the chest and practically took [his] breath away and moved [him] out of the way." Defendant fled the store. Jacob called the police and pursued defendant. Stevan Djuric, a Comcast employee who worked at the store, also ran after defendant and caught him.

¶ 7 Djuric testified and corroborated Jacob's account of the pursuit of defendant. Djuric added that he had just returned from a late lunch when he saw defendant run out the door with Jacob in pursuit. Djuric had not seen what had happened inside the store.

¶ 8 The trial court admitted recordings of calls that defendant had made to his girlfriend Valerie Jarvis during June and July 2012, while he was in jail. At one point, defendant related that he had told an investigator for the public defender that he had gotten the iPads from another store, not from the Downers Grove Best Buy. He told Jarvis that she knew that he had gotten the iPads from the other store. He added that she might have to testify at trial. Jarvis asked defendant to clarify his story. Specifically, she asked where the other store was; he said that it was in Woodridge.

¶ 9 In another call, defendant and Jarvis went over his story again. He related that he had told his public defender that he first stole something from the Woodridge Best Buy but had tried to trick the woman driving him into believing otherwise, because he needed her to drive him to the Downers Grove Best Buy. He also told the public defender that Jarvis could vouch for his statement that he had had the stolen merchandise before he entered the Downers Grove Best Buy. Jarvis expressed doubt about the wisdom of defendant's plan; he would admit that he had been "stealing from someone else," and she did not know "how good that look[ed]."

¶ 10 The State rested. Defendant testified that he entered the Best Buy on September 23, 2011, and was later apprehended outside with two iPads, which were wrapped in aluminum foil and for which he had not paid. However, he had had the iPads when he entered the store,

because he had recently stolen them from another Best Buy. He did not take anything from the Downers Grove Best Buy. He entered the men's room solely for the usual reasons. Defendant did not push Jacob; he merely "brushed past" him. His shoulder had probably touched Jacob.

¶ 11 After hearing arguments, the trial court found defendant guilty of all three charges. As to aggravated battery, the court stated, "[T]he Defendant first hit [Jacob] and told him to get out of the way. And then at that point, after Mr. Jacob said no, the Defendant gave him an elbow to the chest which knocked the wind out of him. And based upon the circumstances described, I find that was bodily harm." The court also commented that defendant's account of the incident was "preposterous" and "ridiculous" and that it was clear that, in his conversations with Jarvis, he had been "attempting to concoct a story" to present at trial.

¶ 12 The trial court ordered a presentencing investigation report (PSIR). At the sentencing hearing, the court admitted recordings of several telephone calls that defendant made from jail in June and July 2012, while he was awaiting trial. These were in addition to the recordings that had been admitted at trial.

¶ 13 In a call to Jarvis, defendant explained that the State had security videotapes showing them trying to effectuate his escape from the hospital where he was taken after his arrest. Jarvis expressed disbelief at first. She then conceded that the tapes existed but said, "I've got something for everything they say."

¶ 14 In another call to Jarvis, defendant explained that he hoped that Jacob would not appear at trial. Defendant told Jarvis that he had been trying to find someone who could locate Jacob on Facebook and ask him whether he would come to court. Defendant spelled Jacob's name out so that Jarvis could write it down. Jarvis said that she would look up Jacob.

¶ 15 Defendant also called his stepson, Dennis. Dennis asked him about security at K mart, because he wanted to obtain "some things for [his] teeth." Defendant told him not to "fuck with K mart" but to go to Walgreens instead. Dennis replied, "They keep them in the case" at Walgreens. Defendant then recommended trying Jewel. He cautioned, "You got to do it in the morning time," when "they stockin' the shit" and no security guard would be present.

¶ 16 In a fourth call, defendant's 11-year-old daughter answered the phone. Defendant told her, "You know, you sound sexier than a motherfucker." Jarvis then spoke to defendant. He said that his daughter did not seem to approve of how he had spoken to her.

¶ 17 The court played videotapes generated by security cameras in the lobby of Advocate Good Samaritan Hospital in Downers Grove on September 25, 2011. Defendant had been taken there for treatment after his arrest. On the tapes, Jarvis opened a stairwell door and looked out. Several times, she entered and exited an elevator while using her phone. She opened the stairwell door again. Soon, she and defendant ran through the lobby and down a hall but were pursued by hospital employees and stopped by security guards. Defendant was restrained and placed into the elevator. A police report on the incident stated that, while walking in the unit, defendant bolted from an employee, pushed her twice, and fled down the stairs. While being handcuffed, defendant tried to pull away, causing a substantial thumb injury to a police officer.

¶ 18 The trial court admitted a report dated September 25, 2011, by Jabeen Ali, M.D., and Zainulabuddin Syed, M.D., who had seen defendant that day. The report stated that defendant had a history of "[p]olysubstance abuse versus dependence including heroin, cocaine, Xanax and other downers." Defendant admitted to "recent substance use ever since he became unemployed two months ago." He admitted that he had been using heroin, but he denied that he had been using cocaine. Confronted with the result of a "urine tox screen" that was positive for cocaine,

defendant replied, "If you say so then he is using cocaine [*sic*]." Defendant "denie[d] any previous attempts at substance rehab." Defendant admitted that he was not currently searching for work, and he "seem[ed] to be enjoying using substances recreationally." Defendant also denied "any history of going to prison."

¶ 19 Dr. Ali stated that defendant was an "unreliable historian" who had given vague answers to straightforward questions. Defendant was "ambivalent about quitting use and also about seeking help upon discharge to stay sober from all substance use."

¶ 20 The trial court heard arguments. The State contended as follows. Defendant's burglary conviction was his seventh felony. The prior ones included two convictions of possessing a stolen motor vehicle, a Class 2 felony. This case was approximately the twenty-fifth time defendant had been sentenced. He committed these offenses while he was on probation for obstructing justice. Defendant's "arrogance" was shown by his attempt at the same crime at the same store a few months earlier. Moreover, defendant had perjured himself at trial: when he testified, he knew that the trial court had just heard the tape of his call to Jarvis in which he disclosed the story that the court later called "preposterous." Also, the videotape of defendant's attempt to escape from the hospital showed that he had shoved a nurse, fought a security guard, and injured a police officer.

¶ 21 Turning to defendant's substance abuse problem, the State noted that, according to the doctors' report, defendant had been ambivalent about treatment and had not shown a strong desire to change his ways. Also, the State observed, when defendant was rejected for drug court, he did not seek alternatives. Further, while in jail, defendant had gotten into an altercation with another inmate, as a result of which he was placed into segregation.

¶ 22 The State further argued that, although defendant had said that he wanted to be a good parent, his conversation with Dennis showed otherwise: when Dennis said that he wanted to steal some items from K mart, defendant gave him practical advice on how best to commit retail theft at a less secure venue. Also, defendant had inappropriately told his 11-year-old daughter that she sounded "sexier than a motherfucker." The State asked the trial court to sentence defendant to 20 years on the burglary conviction.

¶ 23 Defendant argued as follows. Between February 1998 and his arrest in this case, he had committed numerous thefts and related offenses and had steadily abused drugs. His drug problem had not been sufficiently addressed. He received treatment at age 15. Most recently, he had been turned down for drug court but had attended classes until the case was ready for trial. Defendant did love his children. Also, while his mother's criminal background, including theft, did not excuse his conduct, it did help to explain and mitigate it somewhat. Defendant requested the minimum Class X sentence of six years' imprisonment.

¶ 24 In allocution, defendant stated that most of his problems with the law had resulted from his drug habits. He had used cocaine and heroin extensively. Defendant took "full responsibility" for his offenses here, but he called them an "honest mistake" that had resulted from his drug use. He had been making progress in his life in the late 1990s, but had regressed because of his drug habits. In jail, he had attended drug-rehabilitation classes until he was placed into segregation for the altercation with another inmate. He wanted to return to the classes but was not allowed to do so. Defendant said that a 20-year sentence would destroy his family.

¶ 25 The trial court stated as follows. The facts of the case were in themselves aggravating: defendant had been caught doing the same thing that he had attempted only five months earlier. Not only was defendant's testimony "ridiculous," but he had told Jarvis that he believed that his

fabrication would succeed at trial. The court described defendant's criminal history as "horrible." He had committed six prior felonies. Only one prior disposition, a six-month period of supervision for criminal trespass to a vehicle, in 1998, had been terminated satisfactorily. The other five had resulted in parole violations.

¶ 26 The court turned to defendant's drug problems, stating as follows. According to the PSIR, defendant had said that he used cocaine and heroin daily except when he was incarcerated. The last drug-rehabilitation class that he attended was just before he was placed in segregation, about four months before the sentencing hearing. When he returned from segregation, he did not submit a written request to return to the class. Defendant had "absolutely no interest in rehabilitation" and was unlikely to be rehabilitated.

¶ 27 The court did not see defendant's relationship with his children as a mitigating factor. Rather, based on the phone conversations that had been played in court, defendant's children would be "better off without [him]." Defendant's offenses were not "honest mistakes." The only thing that would prevent him from committing more crimes was "a lengthy period of incarceration." Therefore, the court sentenced defendant to concurrent prison terms of 15 years for burglary and 5 years each for retail theft and aggravated battery.

¶ 28 Defendant moved to reconsider the sentences. At the hearing on the motion, the trial court noted that, in pronouncing sentence, it did not "refer to every fact [she] considered." The court reiterated that the recorded conversations were "extremely aggravating" and that defendant had no real interest in rehabilitating himself. After the court denied defendant's motion to reconsider the sentences, he timely appealed.

¶ 29 On appeal, defendant contends first that he was not proved guilty beyond a reasonable doubt of aggravated battery, because the State did not prove that he inflicted "bodily harm" (720

ILCS 5/12-3(a)(1) (West 2010)) on Jacob. He reasons that, although Jacob testified that defendant hit him on the chest and "practically took [his] breath away," he did not testify that he suffered any injury, disfigurement, or pain. Defendant also contends that the trial court misconstrued Jacob's testimony when it stated that defendant's elbow to Jacob's chest "knocked the wind out of him." For the following reasons, we hold that the evidence was sufficient and that any error in the trial court's recall of Jacob's testimony was *de minimis*.

¶ 30 In considering a challenge to the sufficiency of the evidence, we ask only whether, after viewing all of the evidence in the light most favorable to the State, any rational fact finder could have found the elements of the offense proved beyond a reasonable doubt. *People v. Ward*, 154 Ill. 2d 272, 326 (1992). The trier of fact is responsible for determining the witnesses' credibility, weighing their testimony, and deciding on the reasonable inferences to be drawn from the evidence. *People v. Hill*, 272 Ill. App. 3d 597, 603-04 (1995). It is not our function to retry the defendant. *People v. Lamon*, 346 Ill. App. 3d 1082, 1089 (2004).

¶ 31 Our supreme court has stated, "Although it may be difficult to pinpoint exactly what constitutes bodily harm [under the battery] statute, some sort of *physical pain* or damage to the body, like lacerations, bruises or abrasions, whether temporary or permanent, is required." (Emphasis added.) *People v. Mays*, 91 Ill. 2d 251, 256 (1982). In the present case, defendant is correct that Jacob did not state that he suffered physical pain when defendant elbowed him and "practically took [his] breath away." However, we conclude that the trial court could infer that fact.

¶ 32 To obtain a conviction of aggravated battery, the State need not provide *direct* evidence that the victim suffered an injury or physical pain. See *People v. Rotuno*, 156 Ill. App. 3d 989, 992-93 (1987). Rather, because the fact finder has the prerogative to draw reasonable inferences

from the evidence (*Hill*, 272 Ill. App. 3d at 604), bodily harm may be inferred based on the application of common knowledge to the evidence. *Rotuno*, 156 Ill. App. 3d at 992. Here, defendant, who stood 5'11" and weighed approximately 180 pounds (see http:/www2.illinois.gov/idoc/Offender/Pages/Inmate Search.aspx (last visited Sept. 19, 2014)), was in an agitated state when he struck Jacob in the chest hard enough to "practically take [his] breath away." A reasonable fact finder could infer that Jacob suffered at least some physical pain from such a severe blow at close range.

¶ 33 Defendant cites *People v. McBrien*, 144 Ill. App. 3d 489 (1986), and *People v. Fuller*, 159 Ill. App. 3d 441 (1987), as compelling reversal. However, in *McBrien*, the police officer, whom the defendant sprayed with some sort of liquid, testified that he felt a " 'tingling sensation' " as a result. *McBrien*, 144 Ill. App. 3d at 497. Tingling is not pain, and pain cannot be inferred from it. Here, it was a fair inference that an elbow to the chest that almost took Jacob's breath away caused him pain and not mere tingling. In *Fuller*, the evidence showed that, when the defendant was on his back with a police officer on top of him trying to subdue him, he attempted to kick the officer from behind and made some sort of contact. The appellate court found this evidence insufficient to prove pain or injury. *Fuller*, 159 Ill. App. 3d at 445. Here, defendant was not restrained or on his back, and, in contrast to *Fuller*, there was evidence not only that he made contact with the victim but that he hit him very hard. The inference that he inflicted pain was reasonable. The facts in *Fuller* were simply not as compelling.

¶ 34 Defendant also contends that the trial court misconstrued Jacob's testimony. He notes that the court found that defendant "knocked the wind out of" Jacob, whereas Jacob testified that defendant "practically took [his] breath away." We see any error as *de minimis*. "Practically" commonly means "nearly" or "almost." Webster's Third New International Dictionary 1780

(1993); see also R.W. Burchfield ed., Fowler's Modern English Usage 612 (3d ed. 1996). We see no prejudice to defendant from the trial court's slight misconstruction of the evidence. Whether defendant actually "knocked the wind out of" Jacob or "practically took [his] breath away" made no *practical* difference. Defendant was properly found guilty.

¶ 35 We turn to defendant's second contention of error. Defendant contends that the trial court abused its discretion in sentencing him to 15 years' imprisonment for burglary. Defendant acknowledges that, because of his prior convictions, Class X sentencing was mandatory (see 730 ILCS 5/5-4.5-95 (West 2010)) and his sentence was below the midpoint of the 6-to-30-year range (see 730 ILCS 5/5-4.5-25(a) (West 2010)). However, he asserts that the court gave insufficient weight to the role of his "drug addiction" in his criminal activity; his efforts to overcome his drug problem; and his difficult background, including his mother's history of cocaine abuse and recurrent incarceration. Defendant also asserts that the trial court improperly relied on "prejudice" and "conjecture" in disparaging his parenting skills and concluding that his children would be better off without his influence.

¶ 36 We hold that the trial court did not abuse its discretion or consider improper factors in sentencing defendant to 15 years' imprisonment for burglary.

¶ 37 The trial court has broad discretion in sentencing, and its decision is entitled to great deference. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). Absent an abuse of that discretion, the reviewing court may not alter a sentence within the statutory range. *Id.* at 209-10. We may not substitute our judgment for that of the trial court merely because we might have weighed the pertinent factors differently. *Id.* at 209.

¶ 38 We note again that defendant's sentence was toward the low end of the range for Class X offenses—and five years less than what the State urged. Defendant's criminal background was

substantial. He had six prior felony convictions, and the court noted that five of the resultant prison terms had ended in "parole violations." What defendant's prior offenses may have lacked in seriousness they made up for in numbers and in the length of time that they covered. Defendant was seldom out of trouble with the law. Moreover, he committed the offenses here while he was on probation for another offense, a statutory factor in aggravation (see 730 ILCS 5/5-5-3.2(a)(12) (West 2010)).

¶ 39 The trial court had ample other evidence in aggravation to support imposing a sentence 9 years above the minimum and 15 years below the maximum. In discussing this evidence, we note the trial court's statement that it had not explicitly mentioned all of the facts that it had considered in imposing the sentence. Therefore, we note all of the potentially aggravating evidence that was before the court.

¶ 40 Based on defendant's criminal record alone, the trial court could have concluded that his prospects for rehabilitating himself were not good. This was especially so given that the crime here was the same one that defendant had attempted to commit only five months earlier at the same store. The trial court reasonably concluded that this fact in itself was an aggravating consideration. But defendant provided several more reasons for the court to conclude that a long prison term was the only way to deter him from committing more offenses.

¶ 41 First, the court implicitly found that defendant perjured himself with his "preposterous" testimony that he did not steal from the Downers Grove Best Buy but merely carried in merchandise that he had stolen elsewhere. The court concluded from defendant's calls to Jarvis that he had instructed her to perjure herself by telling the same "concoct[ed]" story if she were to testify at trial. A trial court may properly use in aggravation its perception that the defendant committed perjury at trial, as this factor is relevant to the defendant's attitudes toward society

and his prospects for rehabilitation. *United States v. Grayson*, 438 U.S. 41, 50 (1978); *People v. Ward*, 113 Ill. 2d 516, 528 (1986). This consideration was especially strong here. Defendant not only perjured himself *and* coached Jarvis on his story; he repeated that story on the witness stand, right after the court had heard his conversation with Jarvis on what to say at trial.

¶ 42 Second, the court duly considered defendant's attempt to escape from the hospital. Not only was the act itself unauthorized, but, in committing it, defendant caused injury to a police officer who was attempting to handcuff him. The premeditated attempt to escape from the hospital, followed by resisting arrest, did not speak well for defendant's rehabilitative prospects.

¶ 43 Third, while defendant was in jail awaiting trial, he engaged in an altercation that was serious enough for him to be placed in segregation for a substantial period. That fact did not reflect well on defendant's ability to conform his conduct to the law.

¶ 44 Fourth, defendant called Jarvis and asked her to locate Jacob, who was to be the primary occurrence witness at trial, and ask him whether he would come to court. That conduct, with its undertones of possible witness tampering, was ethically dubious at best.

¶ 45 Fifth, defendant's conversation with his stepson Dennis cast grave doubt on his interest in reforming himself. When Dennis proposed committing retail theft, defendant gave him helpful advice on how to maximize his chances of getting away with it. Defendant's own offenses might be explained, if not excused, by his drug problems, but it is hard to see how similar reasoning would apply to his encouraging another person to commit similar crimes. Also, in allocution, defendant did not help himself. Although he purported to take "full responsibility" for his offenses, he then characterized them as an "honest mistake." The trial court properly noted that attempting to steal merchandise from a store does not qualify as an "honest mistake."

¶ 46 In arguing that the trial court imposed an excessive sentence, defendant does not directly address most of these considerations in aggravation. Instead, he focuses on what he contends was the trial court's failure to consider several factors that he claims warranted a shorter sentence. Even here, however, defendant reads the record selectively and requests us to substitute our discretion for that of the trial court.

¶ 47 On this score, defendant contends first that the trial court gave insufficient weight to the role of his drug problem in his criminal activity. Defendant, who was 31 at the time of sentencing, notes that, according to the PSIR, he had been using marijuana and alcohol since his early teens and heroin and cocaine since ages 19 and 21, respectively. Defendant relies on his statement in allocution that his drug use precipitated his offenses here and at previous times.

¶ 48 Defendant assumes that his drug use had to be considered a factor in mitigation. However, "a defendant's history of alcohol and drug abuse is not necessarily mitigating." *People v. Montgomery*, 192 Ill. 2d 642, 674 (2000); see also *People v. Evangelista*, 393 Ill. App. 3d 395, 399 (2009). This caveat is especially applicable when the record discloses that the defendant has forgone opportunities for treatment. See *Evangelista*, 393 Ill. App. 3d at 399. That is so here.

¶ 49 Defendant asserts that the trial court erred in considering that he had attended no drug-rehabilitation classes since returning from segregation. Defendant argues that the court should have credited his assertion in allocution that he was not allowed to return to the program. However, the court noted that defendant had not submitted a written request to be readmitted. Defendant does not address this finding. More important, defendant neglects the evidence that cast doubt on his interest in or likelihood of being rehabilitated. The doctors' report, which he does not mention at all, stated that he initially denied he had been using cocaine, even though a

urine screen had shown otherwise; that he said that he had not previously attempted "substance rehab"; that he seemed to enjoy using recreational drugs; and that he was ambivalent about giving up drugs and seeking help for his drug problem. Also, defendant does not address the evidence that, after he was rejected for drug court, he did not seek any alternatives. Thus, the trial court did not err either in discounting defendant's chances for rehabilitation or in viewing his drug problem as more aggravating than mitigating.

¶ 50 Defendant further argues that the trial court ignored the evidence in the PSIR that his upbringing had been difficult, as his mother had abused cocaine and had been in and out of prison. However, if mitigating evidence was presented to the trial court, we must presume that the court considered it, absent some indication, other than the sentence itself, to the contrary. See *People v. Perkins*, 408 Ill. App. 3d 752, 763 (2011). Here, in denying defendant's motion to reconsider, the court explained that it had not specifically mentioned all of the evidence that had gone into the sentencing decision. Thus, the court's omission of any mention of defendant's upbringing, or other matters disclosed by the PSIR, does not establish that the court ignored these factors, much less that the sentence is excessive.

¶ 51 Defendant also argues that the trial court erred by engaging in "conjecture" and "speculation" about his parenting skills. Defendant asserts that "two short snippets of phone conversations" cannot be the sole basis for concluding that he is a "bad parent" or that he deserves a lengthy prison term. We see no merit in defendant's argument.

¶ 52 Defendant takes the court's comments out of context. The court was, in part, responding to defendant's argument that a lengthy prison term would work a hardship on his children, whom he loved. The court did not find that defendant did not love his children, but it did conclude that his relationship with them was not a significant factor in mitigation and, indeed, could be

considered aggravating. While this conclusion may be perceived to be harsh, it had a sound basis in the evidence.

¶ 53 We have already noted that defendant gave his stepson advice on how to be a more successful retail thief. The court also noted defendant's statement to his preteen daughter that she sounded "sexier than a motherfucker." Further, the court did not need to rely on the phone conversations alone; it could consider that a parent with a long-term drug problem that he was equivocal about treating, as well as a long history of criminal activity, would not be a good influence on his children. Finally, although defendant contends that the court should have considered the good that he had done for his children, he introduced little evidence on that score. Again, defendant requests that we reweigh the factors in aggravation and mitigation so as to substitute our discretion for that of the trial court. Again, we may not do so.

¶ 54 We conclude that the trial court did not abuse its broad discretion when it sentenced defendant to 15 years' imprisonment for burglary.

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

¶ 56 Affirmed.