

No. 1-15-1037

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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. 14 CR 5771
)	
RONNY GILL,)	Honorable
)	Joan Margaret O'Brien,
Defendant-Appellant.)	Judge Presiding.

JUSTICE MIKVA delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's sentence affirmed as the trial court did not abuse its discretion in sentencing him to 12 years' imprisonment.

¶ 2 Defendant Ronny Gill was convicted of being an armed habitual criminal (AHC), a Class X offense (720 ILCS 5/24-1.7(a), (b) (West 2014)) that carries a mandatory sentence of 6 to 30 years in prison (730 ILCS 5/5-4.5-25(a) (West 2014)). He was sentenced to 12 years' imprisonment. On appeal, Mr. Gill argues that the trial court abused its discretion in imposing his

sentence. Because we cannot find that the trial court abused its discretion, we affirm.

¶ 3 The State charged Mr. Gill with seven counts but proceeded on only one count of AHC. At trial, Chicago police officers Jesus Vela and Keith Crot testified that, at around 2:40 a.m. on March 19, 2014, they were in a marked vehicle and responded to a report of a person, dressed in black, looking into cars with a flashlight near 9731 South Claremont Avenue.

¶ 4 On Bell Avenue, the officers saw a man matching the reported description, later identified as Mr. Gill, standing at the entrance of a gangway between two houses. Mr. Gill was approximately 25 yards away and walked towards the police car. On his way, he dropped a large dark object behind a bush. Both officers exited the car. Officer Crot approached Mr. Gill and patted him down. The officers secured him in the squad car. Officer Vela went to where he saw Mr. Gill drop the item and recovered a black vest, which was heavy and “felt like metal objects were in the pockets.” The vest held a .38 special revolver, a flashlight, and a multitool. The revolver contained three live rounds and one discharged casing. Mr. Gill was arrested. It was stipulated that Mr. Gill had the two prior felony convictions that qualified as predicate offenses under the AHC statute.

¶ 5 Mr. Gill testified that, in March 2014, he worked for the Chicago Tribune, where he “unloaded papers and managed” at its facility at Stony Island Avenue and 95th Street. On March 19, 2014, he was at his girlfriend’s house on South Bell Avenue and left at 2:30 a.m. to go to work. Mr. Gill was walking north on Bell Avenue toward the bus stop when police stopped him. He told them that he was on his way to work at the Tribune. The officers searched Mr. Gill and put him in their car. One officer, who Mr. Gill identified as Officer Vela, disappeared for a minute and then reappeared, but Mr. Gill never saw him with anything in his hands. According to Mr. Gill, he was not show the vest until he arrived at the police station. Mr. Gill denied ever looking into cars or being in possession of the items recovered by police.

¶ 6 Because Mr. Gill elected to testify, the State was permitted on rebuttal to enter into evidence

certified copies of Mr. Gill's prior convictions for three additional felonies, as well as the two felony convictions that had been stipulated to.

¶ 7 At the conclusion of the trial, the jury found Mr. Gill guilty of being an AHC. Mr. Gill's motion for a new trial was denied. The court proceeded to sentencing.

¶ 8 Mr. Gill's presentence investigation report (PSI) included a criminal history comprised of seven felony convictions: five burglary convictions (one each in 2003 and 2006, two in 2010, and the most recent in 2012), a possession of cannabis conviction (2004), and a delivery of cannabis conviction (2008). Mr. Gill was sentenced on those convictions to terms that ranged from two years' probation to three and a half years' imprisonment. Mr. Gill's longest sentences were for his two burglary convictions in 2010, for which he was sentenced to a total of three-and-a-half years' imprisonment, and for his 2012 burglary conviction—his most recent conviction—for which for he was sentenced to three years' imprisonment.

¶ 9 At the sentencing hearing, the State asked that Mr. Gill be sentenced "in excess of at least 21 years," noting Mr. Gill's serious criminal history. Defense counsel asked the court to sentence Mr. Gill to the minimum of 6 years' imprisonment. Counsel noted that Mr. Gill was 28 years old and had a criminal history of totally nonviolent crimes. Counsel emphasized that Mr. Gill's longest sentence had been three-and-a-half years' imprisonment. Counsel noted Mr. Gill's employment history, supportive family, and plans to obtain further education. Counsel also submitted a supportive letter from Mr. Gill's girlfriend. When the trial judge gave Mr. Gill an opportunity to address the court, he said that he took full responsibility for his actions.

¶ 10 The trial judge told Mr. Gill that he was "a mystery" to her. The judge noted that he had a "nice upbringing" in a family that had never been involved in the criminal justice system. She also pointed out that he had a high school diploma, no alcohol or drug addiction, and work history. But, as the judge noted, "with all these things in [his] favor," "when [Mr. Gill] was 17 years old, [he] started

getting arrested for felonies and they just continue one after another” despite “no environmental reason for it.” After tracing Mr. Gill’s criminal history in some detail, the judge stated that she had considered “all the statutory factors in aggravation and in mitigation” and sentenced Mr. Gill to 12 years’ imprisonment and 3 years’ mandatory supervised release.

¶ 11 Mr. Gill filed a motion to reconsider his sentence, arguing that his sentence was excessive “for someone with no history of violence.” The judge denied the motion and this timely appeal followed.

¶ 12 On appeal, Mr. Gill argues that his sentence is excessive in light of the nonviolent nature of both his current and prior offenses and the “compelling evidence in mitigation.” The State responds that the trial judge properly exercised her discretion in sentencing Mr. Gill within the statutory range to 12 years’ imprisonment after considering all of the aggravating and mitigating factors.

¶ 13 The Illinois Constitution mandates that “penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship.” Ill. Const. 1970, art. I, § 11. Trial courts have broad discretion in imposing an appropriate sentence, and when that sentence falls within the range provided by statute, as it does here, it cannot be altered absent an abuse of discretion. *People v. Gutierrez*, 402 Ill. App. 3d 866, 900 (2010). An abuse of discretion occurs where the sentence is “greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.” *People v. Stacey*, 193 Ill. 2d 203, 210 (2000) (citing *People v. Fern*, 189 Ill. 2d 48, 54 (1999)). Our supreme court has cautioned us that the trial court is in the superior position to determine an appropriate sentence because of its personal observation of the defendant and the proceedings. *People v. Alexander*, 239 Ill. 2d 205, 212-13 (2010). It is the trial court that must weigh the relevant sentencing factors, which include the defendant’s demeanor, credibility, age, social environment, moral character, and mentality. *Id.* at

213. It is presumed that, when mitigating evidence is presented to the trial court, the court considered it absent some indication to the contrary. *People v. Sauseda*, 2016 IL App (1st) 140134, ¶ 19.

¶ 14 We cannot conclude that the trial judge abused her discretion in imposing a 12-year prison sentence. Mr. Gill was sentenced to a Class X term of imprisonment based on his AHC conviction. 720 ILS 5/24-1.7(b) (West 2014). The sentencing range for a Class X felony is between 6 and 30 years' imprisonment. 730 ILCS 5/5-4.5-25(a) (West 2014). The 12-year sentence falls within the lower half of this statutory range.

¶ 15 Mr. Gill argues that the seriousness of the offense, which was not violent and did not involve harm to others, does not support a 12-year prison sentence. The seriousness of the offense is generally the most important sentencing factor. *People v. Decatur*, 2015 IL App (1st) 130231, ¶ 12. However, as noted above, this sentence was within the lower half of what the legislature has declared to be the appropriate range of sentences for this offense. The record is clear that the trial judge was aware of the details of Mr. Gill's offense. The trial court heard the evidence at trial, including the circumstances surrounding Mr. Gill's possession of a loaded .38-caliber handgun and, therefore, knew the offense was nonviolent. See *People v. Hill*, 408 Ill. App. 3d 23, 30 (2011) (“[t]he trial judge heard the evidence adduced at trial and is presumed to know violence was not involved in this case”). As the record shows that the court was aware of the nonviolent nature of the offense, we must presume it considered this mitigating factor in sentencing him. *Sauseda*, 2016 IL App (1st) 140134, ¶ 19.

¶ 16 Mr. Gill also argues the trial court focused too much on Mr. Gill's prior criminal history and did not afford the proper weight to the mitigating circumstances, such as his family background, education, and work history. The PSI set forth this mitigating evidence in detail. The trial court is presumed to have considered the mitigating evidence contained in the record. *People v. Anderson*, 325 Ill. App. 3d 624, 637 (2001). Further, the court expressly stated at the sentencing hearing that it

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had considered the factors in aggravation and mitigation and recited Mr. Gill's family history and support, education, work history, age, and rehabilitative potential as set forth in his PSI.

¶ 17 Also, Mr. Gill's "pattern of criminal behavior" was extensive and three of his prior convictions were for burglary. We do not think that the trial judge was required to ignore that Mr. Gill continued to reoffend and was clearly "not deterred by previous, more lenient sentences." *People v. Wilson*, 2016 IL App (1st) 141063, ¶ 13.

¶ 18 Based on this record, we cannot find that the trial judge abused her discretion in sentencing Mr. Gill to a term of 12 years' imprisonment.

¶ 19 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 20 Affirmed.