2018 IL App (1st) 151781-U

No. 1-15-1781

February 27, 2018

Second Division

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. 13 CR 14552
	)	
DEREK MONTGOMERY,	)	Honorable
	)	Thomas V. Gainer, Jr.,
Defendant-Appellant.	)	Judge presiding.

PRESIDING JUSTICE NEVILLE delivered the judgment of the court.
Justices Hyman and Mason concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's 12-year sentence for harassment of a witness is not excessive; mittimus corrected to remove Class X offender indication and reduce term of mandatory supervised release (MSR) for harassment to two years; defendant must serve the four-year term of MSR for violating an order of protection.

¶ 2 Following a bench trial, defendant was convicted of harassment of a witness and violation of an order of protection, and sentenced to concurrent prison terms of 12 years and 3 years, respectively. On appeal, defendant contends that his 12-year sentence for harassment is

excessive because it is disproportionate to the nature of the offense and does not reflect his potential for rehabilitation. Defendant also contends, and the State agrees, that his mittimus should be corrected to remove the indication that he is a Class X offender, and to reduce his term of mandatory supervised release (MSR) for the harassment conviction from three years to two years. Finally, defendant argues that he should only have to serve the two-year MSR term for the harassment conviction and should not have to serve the four-year MSR term for violating the order of protection. We correct the mittimus and affirm defendant's convictions and sentences in all other respects.

¶ 3 Defendant represented himself *pro se* throughout all of the proceedings in this case. Defendant was charged with three counts each of harassment of a witness and violating an order of protection.

¶ 4 While this case was pending, in a separate case number 14 CR 6376, defendant was convicted of violating an order of protection for sending a letter to his ex-girlfriend, Sharonda Vaughn, through a third party, and sentenced to 42 months' imprisonment. Two months later, defendant was charged in another case, number 14 CR 21879, with threatening a public official based on a letter he sent to the prosecutor in case number 14 CR 6376.

¶ 5 Defendant requested a plea conference, during which the State made him an offer on his two pending cases. In this case, the State offered that if defendant pled guilty to one count of harassment of a witness, it would dismiss the remaining counts and recommend a sentence of three years' imprisonment. In case number 14 CR 21879, if defendant pled guilty to threatening a public official, the State offered a three-year sentence. The sentences would run consecutively, and consecutive to the 42-month sentence in case number 14 CR 6376. The trial court noted that

the three-year terms were the minimum sentences, and stated that it would accept the State's recommendations. Defendant rejected the offer.

¶ 6 The State then advised the court that it would seek an extended-term sentence based on defendant's criminal background. The State proceeded to trial on the three counts of harassment of a witness and one count of violating an order of protection.

¶ 7 At trial, former Assistant State's Attorney (ASA) Sabra Ebersole testified that she prosecuted defendant in a prior case, number 09 CR 13, in 2010 and 2011. Defendant was charged with home invasion, aggravated kidnapping, aggravated battery and domestic battery against Sharonda. In September 2010, Sharonda and her mother, Charease Vaughn, testified against defendant. Defendant was convicted of aggravated battery and domestic battery. During sentencing, on January 13, 2011, Ebersole filed a petition for an order of protection. The factual allegations in the petition stated that defendant broke into Sharonda's home, would not allow her or her children to leave, and stabbed Sharonda in the ear with a screwdriver. The petition further stated that defendant had a history of violence towards Sharonda's family, and in 2000, he shot her mother, Charease. The court entered the order of protection barring defendant from having any contact by any means with Sharonda, and her two children. Defendant was given a copy of the order, and stated that he understood the parameters of the order and agreed to abide by them.

¶ 8 Sharonda Vaughn testified that she began dating defendant in 1999 when she was 16 years old. In 2000, Sharonda gave birth to their daughter. That same year, Sharonda and defendant ended their relationship. Sharonda lived with her mother, Charease. Later that year, defendant came to Charease's house and shot Charease. Sharonda then obtained an emergency

order of protection against defendant. In 2003, Sharonda gave birth to a son. Defendant is not the father.

¶ 9 In 2006, Sharonda resumed her relationship with defendant and they began living together. In September 2008, the relationship ended, and Sharonda asked defendant to move out of their apartment. Sharonda began dating another man, whom she eventually married.

¶ 10 In the early morning hours of November 19, 2008, defendant broke into Sharonda's apartment while she was home with her children. Defendant stayed a few hours, and stabbed her in the ear. Defendant was prosecuted for that offense in case number 09 CR 13. Sharonda and her mother, Charease, testified against defendant. They also attended defendant's sentencing hearing, and Sharonda provided a victim impact statement. Sharonda requested an order of protection because, based on defendant's criminal acts, she feared for her family's safety.

¶ 11 In August 2011, Sharonda received an envelope from her mother which contained several letters from defendant. The envelope was postdated August 3, 2011, and defendant had mailed it to her mother from prison. Two letters in the envelope were addressed to Sharonda, separate letters were addressed to her children and three letters were addressed to her mother. One of the letters to Sharonda was 11 pages long, with a 2-page postscript.

¶ 12 Defendant addressed one of the letters to Charease as "Dear Child Depriver," and accused Charease of keeping him away from seeing his daughter. On the last page, defendant wrote the name "Charease Vaughn," and used each letter of her name to write a word vertically. Those words were carnivorous, harridan, ad nauseam, repugnant, evil, awkward, savage, evil x2, vile, apparent, uncivil, gimmick, harsh, and negative. At the bottom of that page, defendant wrote "Characteristics of 'THE EVIL ONE.' " Defendant stated that it was a good thing her

name did not include a "B" so he would not be tempted to be disrespectful. He further wrote that if he did not have to include a return address, he would have written a note to the mailman that if the letter did not reach the address to send it to hell and the person would receive it. Defendant concluded "Take Care Evil Woman."

¶ 13 In the letter to Sharonda, defendant referenced that he was coming home soon. Sharonda was aware at that time of defendant's imminent release from prison for his battery conviction for stabbing her in the ear in case number 09 CR 13. In the letter, defendant asked her to drop the order of protection for the sake of him and the children. Defendant also accused Sharonda of cheating on him. Defendant said he missed the children and to tell other men to keep their hands off of his kids. Defendant wrote "I don't play that s- - - , and 'will' kill about that. Please believe me, all they have to do is lie, and he's/they're DEAD." Defendant said if anything happened to his daughter, he would "go crazy like everyone already thinks I am." Defendant also talked about Sharonda's body and suggested how she could improve it. Sharonda testified that defendant's words were humiliating and made her feel like he was controlling her from afar.

¶ 14 Sharonda notified the prison, the Chicago police, and the State's Attorney's Office that defendant sent her the letters. Sharonda testified that after receiving the letters she was upset, scared, fearful, and bothered by what defendant said and how he said it. Sharonda subsequently received additional letters from defendant.

¶ 15 The court stated that it would review the contents of all of the letters as the trier of fact, and that they would be made part of the record. Accordingly, because the case was a bench trial, the prosecutor and court determined that it was not necessary for the State to publish the contents of the rest of the letters.

¶ 16 Charease Vaughn testified that on September 9, 2000, defendant shot her inside her apartment. Sharonda's daughter and Charease's two other daughters were present during the shooting. In 2010, Charease testified against defendant in case number 09 CR 13, which led to his conviction for aggravated battery and domestic battery against Sharonda. Charease also testified in aggravation at the sentencing hearing, and defendant was sentenced to prison.

¶ 17 In August 2011, Charease received the envelope defendant mailed to her from prison which contained several letters. Charease felt intimidated and scared by some of the things defendant said in his letters to her. In those letters, defendant called her evil and talked about killing her. Charease gave the envelope of letters to Sharonda.

¶ 18 Chicago police detective Steven Scott testified that on June 27, 2013, he interviewed defendant at the Shawnee Correctional Center with his partner, Detective Williams, and ASA Maria Salas-Wail. After being advised of his *Miranda* rights, defendant admitted that he wrote the letters received by the Vaughns. Defendant acknowledged that there was a valid order of protection against him, but claimed that it did not apply until after his release. Scott subsequently arrested defendant for violating the order of protection.

¶ 19 The trial court found that defendant intended that Sharonda read the letters addressed to her mother and her children. It further found that, although there were some benign sentences in the letters, there were also threats made to Sharonda and Charease, who testified against him in case number 09 CR 13, as well as threats to other members of Sharonda's family. The court found that defendant was threatening, angry and evil. The court found that the letters produced mental anguish and emotional distress in both Sharonda and Charease. It also found that there was a direct relationship between Sharonda's testimony in case number 09 CR 13 and the

contents of all of the letters. Accordingly, the court found defendant guilty of three counts of harassment of a witness and one count of violating an order of protection.

¶ 20 At sentencing, in aggravation, Sharonda testified that the victim impact statement she prepared for this case was her third statement against defendant. Sharonda had two prior orders of protection against defendant. While this case was pending, Sharonda's friend, Debra Stephens, received a letter defendant mailed to her from prison. Attached to the letter were three pictures of defendant's chest with Sharonda's name tattooed on it. In the letter, defendant made reference to the fact that he knew where Sharonda lived, and he stated her exact occupation and address where she worked. In the prior orders of protection, Sharonda purposely did not include her address because she did not want defendant to know where she lived. She testified that she was "very scared" and fearful to learn that he knew where she lived because she did not know what defendant would do or who he would send.

¶ 21 In her victim impact statement, Sharonda stated that she had been a victim of defendant since 2000, and that it had been mentally and emotionally frustrating and draining. Sharonda stated that she strongly believed that defendant was a "huge threat" to her, her family, and friends. She stated that he was "like a bloodhound with a revenge" and no remorse, and she was disturbed that he portrayed himself as the victim in his letters. She testified that she was uncomfortable and scared that he had her home and work addresses, and worried about what he would do to her and her family. She stated that defendant was "crazy" and "capable of crazy things." She further stated that defendant was unstable, that he believed he was never wrong about anything he did, and that he needed to stay in prison for a very long time because his way of thinking was "very, very off track."

¶ 22 Sharonda requested another order of protection against defendant to protect herself, her mother, and her children. Sharonda acknowledged that her daughter was present when defendant shot her mother, Charease, in 2000, when he was arrested for hitting Sharonda with a garbage can lid in 2007, when he was arrested for aggravated battery for pushing Sharonda into a fence and resisting police in 2008, and when he stabbed her in the ear.

¶ 23 The State requested an extended term of 14 years' imprisonment for the Class 2 felony of harassment of a witness, and a sentence of three years' imprisonment for violating the order of protection. The State argued that defendant had wracked havoc on Sharonda's life, that he had not responded to anything, and that he still sent letters even after being charged with another case. The State pointed out that in the letter to Stephens, defendant stated that he believed Sharonda was one of the most evil people on this earth, and told Stephens that she could show the letter to her "buddy." The State further argued that this case "cried out" for an extended sentence where defendant was undaunted, continued to commit crimes, refused to abide by the court's orders, and continued to threaten people.

¶ 24 In mitigation, defendant, *pro se*, argued that he should not be subject to an extended sentence. He asserted that he should receive the minimum sentence of three years' imprisonment because the letters were sent in one envelope in the year 2011, and nothing else occurred between the time he sent the letters and when he was arrested for the offense two years later. Defendant stated that while incarcerated, he took college courses, and was a tutor and a teacher's aide. He further stated that he had no disciplinary reports for the six and a half years he had been incarcerated, which demonstrated his potential for rehabilitation.

¶ 25 The trial court stated that it reviewed the letters, the evidence in aggravation, including the victim impact statement, and the presentence investigation report (PSI). The court noted that defendant had a criminal history. It found that "defendant's conduct threatened serious harm and caused very deep emotional scarring to Sharonda." The court found that there was no provocation by Sharonda that would explain the "outrageous behavior" defendant had engaged in for years. The court found it "stunning" that defendant continued to do the thing that caused him to be incarcerated for a great length of time, knowing that his actions had consequences. The court merged together the three harassment counts and sentenced defendant to 12 years' imprisonment for harassment of a witness, and a concurrent term of 3 years' imprisonment for violating the order of protection. The court also entered another order of protection barring defendant from having any contact by any means with Sharonda, her mother, and her children, and explained to defendant that it included writing letters.

¶ 26 In his *pro se* motion to reconsider his sentence, defendant argued that his 12-year sentence was excessive because he merely sent letters, and no one was physically harmed or threatened with harm. The trial court replied that defendant's statements were threatening, and Sharonda testified that she felt threatened. The court further noted that defendant had shot Sharonda's mother, stabbed Sharonda in the ear, and continued to write letters. Accordingly, the court denied defendant's motion.

¶ 27 On appeal, defendant first contends that his 12-year sentence for harassment of a witness is excessive because it is disproportionate to the nature of the offense and does not reflect his potential for rehabilitation. Defendant argues that his act of sending one packet of letters from prison, where he did not pose any physical danger to Sharonda, does not warrant the lengthy

sentence that is only two years below the maximum extended term. Defendant points out that if he had accepted the plea offer, he would have been sentenced to the minimum term of three years in prison, which is one-fourth of the sentence he received. He also claims that the court's comments that he shot Sharonda's mother and stabbed Sharonda in the ear show that the sentence was imposed because of his prior acts, not in proportion to the offense in this case.

¶ 28 The State responds that the sentence is not excessive because defendant sent multiple letters to Sharonda, calling her and her family evil, stating that he knew where she lived and worked, and threatened her with physical violence and death. The State notes that defendant has a long violent history with Sharonda, and argues that consideration of his prior acts was critical to the court's determination of the proper sentence. The State further argues that defendant has long demonstrated that he has little potential for rehabilitation where he had not changed his behavior since his prior incarcerations.

¶ 29 As charged in this case, harassment of a witness is a Class 2 felony with a normal sentencing range of three to seven years' imprisonment. 720 ILCS 5/32-4a(a)(2) (West 2010); 730 ILCS 5/5-4.5-35(a) (West 2010). Here, based on his prior aggravated battery conviction, defendant was eligible to receive an extended-term sentence, which has a range of 7 to 14 years' imprisonment. 730 ILCS 5/5-5-3.2(b)(1) (West 2010); 730 ILCS 5/5-4.5-35(a) (West 2010).

¶ 30 The trial court has broad discretion in imposing an appropriate sentence, and where, as here, that sentence falls within the statutory guidelines, it will not be disturbed on review absent an abuse of discretion. *People v. Jones*, 168 Ill. 2d 367, 373-74 (1995). An abuse of discretion exists where a sentence is at great variance with the spirit and purpose of the law, or is

manifestly disproportionate to the nature of the offense. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010).

¶ 31 The Illinois Constitution mandates that criminal penalties be determined according to the seriousness of the offense, and with the objective of restoring the offender to useful citizenship. Ill. Const.1970, art. I, § 11; *People v. Ligon*, 2016 IL 118023, ¶ 10. In light of these objectives, "[t]he trial court is charged with fashioning a sentence based upon the particular circumstances of the individual case, including the nature of the offense and the character of the defendant." *People v. Fern*, 189 Ill. 2d 48, 55 (1999). The court's sentencing decision is entitled to great deference because, having observed the defendant and the proceedings, it had the opportunity to weigh defendant's demeanor, credibility, general moral character, mentality, habits, social environment and age. *Alexander*, 239 Ill. 2d at 213. "The sentencing judge is to consider 'all matters reflecting upon the defendant's personality, propensities, purposes, tendencies, and indeed every aspect of his life relevant to the sentencing proceeding.' " *Fern*, 189 Ill. 2d at 55 (quoting *People v Barrow*, 133 Ill. 2d 226, 281 (1989)).

¶ 32 Here, we find no abuse of discretion by the trial court in sentencing defendant to an extended term of 12 years' imprisonment, which falls within the statutory guidelines. When imposing the sentence, the trial court stated that it reviewed the letters defendant sent to Sharonda, the evidence in aggravation, including Sharonda's victim impact statement, and the information contained in the PSI, which included defendant's criminal history. The court expressly found that "defendant's conduct threatened serious harm and caused very deep emotional scarring to Sharonda." The court further found that Sharonda had not provoked the "outrageous behavior" defendant had engaged in for years. The court found it "stunning" that

defendant had continued this behavior, which had already resulted in a lengthy sentence, knowing that his actions had consequences. The record therefore establishes that the trial court gave great consideration to the nature and seriousness of the offense in this case, and determined that the seriousness and outrageousness of defendant's conduct warranted the 12-year sentence. *Fern*, 189 Ill. 2d at 55.

¶ 33 We reject defendant's argument that his act of sending one packet of letters did not warrant the sentence because he did not pose any physical danger to Sharonda as he was in prison. Sharonda testified at trial that defendant's letters made her extremely upset, and that she was scared, fearful and bothered by what defendant said. She further testified that defendant's comments about her body were humiliating and made her feel like he was controlling her from afar. At sentencing, Sharonda testified that she was "very scared" that defendant had somehow found out where she lived and worked, and she was worried that he would do something, or send someone else to do something harmful to her and her family. Sharonda's testimony led the trial court to find that defendant's letters caused her deep emotional scarring and threatened her and her family with serious harm, thereby justifying the lengthy sentence.

¶ 34 We also reject defendant's argument that the sentence does not reflect his potential for rehabilitation. The record shows that while this case was pending, defendant was convicted in a separate case of violating an earlier order of protection for the same conduct of sending a letter to Sharonda. Two months later, defendant was charged in another case with threatening a public official by sending a letter to the prosecutor in the earlier case. At sentencing, Sharonda testified that while this case was pending, defendant sent a letter to one of her friends indicating that he knew where Sharonda lived and worked. In imposing defendant's sentence, the trial court

expressly stated that defendant had engaged in this outrageous behavior for years, even after he had been convicted. The record thus shows that the court found that defendant had demonstrated little, if any, potential for rehabilitation. See *Fern*, 189 Ill. 2d at 55.

¶ 35 In addition, defendant's claim that his 12-year sentence is excessive because he was offered a 3-year deal in exchange for his guilty plea is unpersuasive. There is no indication in the record that the trial court imposed a lengthier sentence as a punishment because defendant rejected the offer and went to trial. *People v. Means*, 2017 IL App (1st) 142613, ¶¶ 21-22. The trial court made no mention of the plea offer during sentencing. The disparity between a plea offer and a sentence imposed after a trial may merely reflect that defendant was offered an inducement to plead guilty in exchange for a sentence that was less than that which was actually warranted. *People v. Parsons*, 284 Ill. App. 3d 1049, 1064 (1996).

¶ 36 Finally, we find no merit in defendant's claim that the court's comments that he shot Sharonda's mother and stabbed Sharonda in the ear show that the court imposed the sentence based on his prior acts. It is significant that the trial court did not make these comments during sentencing, but instead, when it denied defendant's motion to reconsider his sentence. Therefore, the comments were not a factor considered by the court when determining defendant's sentence. Moreover, the record shows that the court made these comments in response to defendant's argument that his 12-year sentence was excessive because no one was physically harmed or threatened with harm. The court replied that the statements in defendant's letters were threatening, and that Sharonda testified that she felt threatened. The court then noted that defendant had shot Sharonda's mother, stabbed Sharonda in the ear, and continued to write

letters. The record thus shows that the court was explaining why Sharonda was justified in feeling threatened by defendant's letters.

¶ 37 This court will not reweigh the sentencing factors or substitute its judgment for that of the trial court. *Alexander*, 239 Ill. 2d at 213. Based on the record before us, we cannot say that the sentence imposed by the court is excessive, manifestly disproportionate to the nature of the offense, or that it departs significantly from the intent and purpose of the law. *Fern*, 189 Ill. 2d at 56.

¶ 38 Defendant next contends, and the State agrees, that his mittimus should be corrected to remove the indication that he is a Class X offender, and to reduce his term of MSR for the harassment conviction from three years to two years. It appears from the record that when defendant was sentenced on April 8, 2015, no mittimus was issued. On June 18, 2015, the court issued a mittimus which erroneously indicated that defendant was to serve one year of MSR for the offense of violating the order of protection. All of the other information on this mittimus was correct. The following day, June 19, 2015, the court issued a corrected mittimus which added an indication that defendant was sentenced as a Class X offender for the harassment conviction. The report of proceedings for that date only states that the court was issuing a corrected mittimus, and provides no explanation of why the Class X indication was added.

¶ 39 On September 3, 2015, an ASA was present in court when the court issued another corrected mittimus. After conferring with the ASA, the court increased the MSR term for the violation of the order of protection offense from one year to four years. The court also increased the MSR term for the harassment offense from two years to three years, with the Class X

offender indication still remaining. The notation that defendant was sentenced to an extended term for the harassment conviction was also removed.

¶ 40 The parties now agree that defendant was never subject to sentencing as a Class X offender as he did not have the required predicate convictions for that classification. 730 ILCS 5/5-4.5-95(b) (West 2010). The parties agree that the Class X indication was erroneously added without explanation and should be removed. They further agree that the indication that defendant was sentenced on Count 1 to an extended term should be reinstated. The parties also agree that the MSR term for the harassment conviction should be reduced from three years to two years, which is the correct term for a Class 2 felony conviction. 730 ILCS 5/5-8-1(d)(2) (West 2010).

¶ 41 We have reviewed the record and concur with the parties' assessment. Accordingly, we direct the circuit court to make the following corrections to the mittimus: (1) remove the indication that defendant has been sentenced as a Class X offender on Count 1; (2) indicate that on Count 1 defendant is sentenced to an extended term; and (3) reduce the MSR term for Count 1 from three years to two years.

¶ 42 Finally, defendant contends that he should only have to serve the two-year MSR term for the harassment conviction and should not have to serve the four-year MSR term for violating the order of protection. Defendant points out that the sentences in his three separate cases are being served consecutively. In this case, he is serving 12 years' imprisonment for harassment of a witness, with a concurrent term of 3 years' imprisonment for violating an order of protection. His sentence in this case is consecutive to his 42-month sentence for violating an earlier order of protection in case number 14 CR 6376, and consecutive to his 2-year sentence for threatening a public official in case number 14 CR 21879. Relying on *People v. Jackson*, 231 Ill. 2d 223

(2008), defendant argues that his consecutive sentences are treated as a single term, and that he serves the MSR term that corresponds to the most serious offense. *Jackson*, 231 Ill. 2d at 227 (citing 730 ILCS 5/5-8-4(e)(2) (West 2004)[1]). Defendant asserts that the most serious offense out of his convictions is harassment of a witness, which is a Class 2 felony. He argues that he therefore is required to serve the two-year MSR term that corresponds to his harassment conviction, and that he does not have to serve the four-year MSR term that corresponds to his less serious conviction for violating the order of protection, which is a Class 4 felony.

¶ 43 The State responds that defendant must serve the four-year term of MSR because the sentences for his two convictions in this case run concurrently, not consecutively. The State points out that the Illinois Supreme Court recently held that when concurrent sentences that include terms of MSR are imposed, the defendant must serve the prison terms concurrently, and when completed, must serve the MSR terms concurrently. *Round v. Lamb*, 2017 IL 122271, ¶ 29.

¶ 44 Defendant replies that *Round* was decided after he filed his opening brief in this appeal. Defendant acknowledges the holding in *Round*, and recognizes that this court is bound to follow supreme court precedent. He asserts, however, that *Round* was wrongly decided, and states that he is maintaining his position on this issue to preserve it for the possibility of further review.

¶ 45 Similar to this case, in *Round*, the defendant was charged with multiple counts of harassment of a witness and violating an order of protection. *Round*, 2017 IL 122271, ¶ 3. Round pled guilty to one count of harassment and was sentenced to five years in prison, followed by a two-year term of MSR. *Id.* He also pled guilty to one count of violating an order of protection and was sentenced three years in prison, followed by the four-year term of MSR that is mandated

[1] Now codified at 730 ILCS 5/5-8-4(g)(2) (West 2010).

by statute for that offense. *Id.* (citing 730 ILCS 5/5-8-1(d)(6) (West 2016)). Round's sentences ran concurrently. *Id.* The four-year MSR term was not mentioned in plea negotiations, during sentencing, or in the mittimus. *Id.* The defendant filed for *habeas corpus* or, alternatively, *mandamus* relief, arguing that he was not required to serve the four-year term of MSR and was entitled to immediate release from custody on three bases. First, he argued that he was not sentenced to the MSR term because it was not included in the sentencing order. Second, he claimed that if he was subject to the MSR term, it began when he completed his prison term for the corresponding offense, and was completed. Finally, he argued that his sentence should be amended to give him the benefit of his bargain. *Id.* ¶¶ 8-9.

¶ 46 The supreme court rejected all three of the defendant's arguments and held that he was required to serve the four-year term of MSR. The court noted that the MSR term is a mandatory part of a sentence, whether or not it is included in the written sentencing order. *Id.* ¶ 28. The court then explained:

> "When, as here, an offender receives multiple, concurrent sentences including terms of MSR, the prison terms are to be served concurrently, and then the MSR terms are to be served concurrently to one another once all prison terms have been completed. In most cases, this results in the offender serving the lengths of the prison and MSR terms of the most serious offense. In this case, however, the lesser felony—violation of an order of protection—carries a longer term of MSR than the more serious felony, resulting in a longer overall time in custody." *Id.* ¶ 29.

¶ 47 Similar to *Round*, in this case, defendant was sentenced to concurrent prison terms which each included a term of MSR. The MSR terms are a mandatory part of defendant's sentences. In

accordance with *Round*, defendant must first serve his 12-year and 3-year sentences concurrently. After his prison terms are completed, he must then serve his two-year and four-year MSR terms concurrently. Although the harassment conviction is the more serious offense, the offense of violating an order of protection carries a longer MSR term mandated by statute. 730 ILCS 5/5-8-1(d)(6) (West 2010). It is well settled that the appellate court is bound to follow the holdings of our supreme court, and we lack authority to overrule those decision. *People v. Artis*, 232 Ill. 2d 156, 164 (2009). Therefore, we reject defendant's claim that he is not required to serve the four-year term of MSR that corresponds to his conviction for violating the order of protection.

¶ 48 For these reasons, we direct the clerk of the circuit court to correct defendant's mittimus as directed, and affirm his convictions and sentences in all other respects.

¶ 49 Affirmed; mittimus corrected.