

No. 1-16-0167

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 10827
	)	
DERRICK RATCLIFF,	)	Honorable
	)	Joseph M. Claps,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Justices Connors and Delort concurred in the judgment.

**ORDER**

¶ 1 *Held:* The defendant was not deprived of a fair sentencing hearing by the trial court's failure to explain its reasoning for the sentence imposed. The defendant's sentence of 29 years' imprisonment for armed robbery with a firearm is not excessive.

¶ 1 Following a bench trial, defendant-appellant Derrick Ratcliff was convicted of armed robbery with a firearm and sentenced to 29 years in prison. On appeal, the defendant contends that he did not receive a fair sentencing hearing and that his due process rights were violated

because the trial court did not explain its reasoning for the sentence imposed. The defendant further contends that his sentence is excessive. For the reasons that follow, we affirm the judgment of the circuit court of Cook County.

¶ 2 BACKGROUND

¶ 3 The defendant's conviction arose from an incident on May 15, 2014, at a 123 Wireless cell phone store (the store) in Chicago, during which an employee and several customers were robbed by the defendant and another man. The defendant was charged with six counts of armed robbery with a firearm and six counts of aggravated unlawful restraint.

¶ 2 At trial, Mary Guerrero testified that on the date of the robbery she was working behind the display case at the store. About 3 p.m., a man, whom she identified as the defendant, entered the store and pointed a gun at her face. The defendant told everyone in the store to get on the floor. A second man jumped over the display case into the employee area where Guerrero was standing. The defendant screamed at Guerrero "where is the cameras," and directed her to show his accomplice the store's camera system. In the back room, she showed the second man the security system, where he ripped out the cables and put them in a bag, along with boxes of phones. Guerrero saw the defendant in the main part of the store, going through customers' pockets. The second man rejoined the defendant before they left the store. About three weeks later, Guerrero viewed a lineup and identified the defendant as the gunman.

¶ 3 Araceli Sarabia testified through an interpreter that she was at the store with her eight-year-old son when two men entered, including the defendant, who had a gun. The defendant demanded money from Sarabia; when she told him that she did not have any, he took her phone. The defendant directed the other people in the store to take everything out of their pockets. The

defendant's accomplice told an employee to give him money from the register. He then took that employee "to the back" and "made her disconnect \*\*\* the camera." The second man gathered up cell phones and put them in a bag. As the two men left the store, the defendant pointed his gun down and "pulled it so that the bullets would fall \*\*\* on the floor." The defendant picked up the bullets before exiting the store. Sarabia subsequently identified the defendant in a lineup.

¶ 4 Anne Comage testified that she and her father were at the store when the defendant pointed a gun at her. The defendant said something like, "This is a stickup. I'll kill you," or "You don't believe I'll shoot you," and directed Comage to get on the floor. The defendant told everyone in the store to get down and empty their pockets. Comage testified that \$112 was taken from her. Comage heard a female cashier "in the back" screaming that she did not have a key, and a man insisting that she did and threatening to kill her. About three weeks after the robbery, Comage identified the defendant in a photo array and a lineup. Comage's father, Willie Newton, testified that the defendant ordered him to take everything out of his pockets. The defendant took Newton's wallet and an additional \$300 from Newton's pocket.

¶ 5 Omar Hernandez testified that he was at the store with his brother-in-law, Jorge Cervantes. Hernandez saw a man with a gun enter the store, followed by a second man. In court, Hernandez identified the defendant as the gunman. The defendant told everyone to get on the floor and take out everything in their pockets. Eventually, the defendant and the second man, who had gathered phones in a bag, left the store.

¶ 6 Jorge Cervantes similarly testified that he was in the store when two men entered, including the defendant, who had a gun. The defendant cocked the gun, and told everyone in the store to get on the floor and empty their pockets. The defendant took about \$500 in cash from

Cervantes. At some point, the defendant pointed the gun at the cashier and told her to open the register. Meanwhile, the defendant's accomplice was in the back of the store, from which Cervantes heard crying, screaming, and yelling. Cervantes identified the defendant in a lineup three weeks after the robbery.

¶ 7 Chicago police detective Yvonne Cary Carter testified that she worked as an evidence technician. At the crime scene, she examined a cell phone display case for fingerprints, and she was able to lift two prints from a cell phone holder in the display case. Chicago police officer Thomas Cook, an expert in fingerprint identification, testified that he examined a palmprint and fingerprint from the store. He scanned the palmprint into the police department's Automatic Fingerprint Identification System, which generated a list of 10 potential matches, of which the defendant was the first candidate. Officer Cook compared the palmprint with the defendant's and concluded they were from the same person.

¶ 8 The trial court found the defendant guilty of the armed robberies of Guerrero, Newton, Cervantes, Comage, and Sarabia, and found that the State proved beyond a reasonable doubt that the defendant was armed with a firearm at the time of the offense. The court stated that the charges of aggravated unlawful restraint merged. The defendant's posttrial motion was denied.

¶ 9 At the defendant's sentencing hearing, the State argued that the number of people in the store, as well as the presence of a child during the robbery, were aggravating circumstances. The State also noted that a store employee was taken into the back room, the store's video equipment was destroyed, and the defendant possessed a gun during the offense. The State emphasized the defendant's criminal history, including an aggravated robbery in 2009 for which he received boot camp, a "string of residential burglaries" in 2010 for which he received concurrent terms of 5 ½

years' imprisonment, and possession of a controlled substance in 2013 for which he received two years' imprisonment. The State argued that the "defendant does not know how to be a law abiding citizen" and requested a sentence of 40 years.

¶ 10 In mitigation, defense counsel noted that the defendant was 23 years old, that none of the complaining witnesses were injured, and that the defendant was not the offender who took the store employee into the back room. Defense counsel further argued that the defendant "wasn't given a lot of opportunities or a great start in life," noting that, when the defendant was 12, the Department of Children and Family Services (DCFS) initiated an abuse and neglect case against the defendant's mother. The defendant thereafter had little to no contact with his mother, as he was raised by his grandmother. The defendant also had no contact with his father for the last 20 years. Defense counsel further noted that the defendant was one of 10 children and that he was initiated into a gang when he was 12 years old. Nevertheless, counsel argued that the defendant had been a calm, cooperative, helpful, respectful, and polite client. Defense counsel requested the minimum sentence of 21 years. The defendant declined to speak on his own behalf during sentencing.

¶ 11 The trial court announced its sentence as follows:

"I've considered the factors in aggravation and mitigation.  
I've considered the PSI, the fact that the defendant was on parole  
at the time of the offense.

Defendant is sentenced to 14 years in the Department of  
Corrections with a mandatory add-on of 15 years for a total of 29  
years. He's given credit for 538 days. This is on Counts 1, 2, 3, 4,

and 6. They run concurrently. The remaining counts merge into these counts. There was a finding of not guilty as to Count 5. He's eligible for day-for-day good time. Mittimus to issue."

¶ 12 The defendant filed a motion to reconsider the sentence, which was denied. This appeal followed.

¶ 13 ANALYSIS

¶ 14 On appeal, the defendant's first contention is that the trial court's failure to explain its reasoning for the sentence deprived him of a fair sentencing hearing and due process. He argues that the trial court failed to comply with section 5-4.5-50(c) of the Illinois Code of Corrections, which provides that the "sentencing judge in each felony conviction shall set forth his or her reasons for imposing the particular sentence entered in the case." 730 ILCS 5/5-4.5-50(c) (West 2014). The defendant argues that the trial court deprived him of an explanation for why he was being punished more severely than defense counsel suggested and less severely than the State requested. He asserts that the trial court's failure to explain the basis for his sentence impaired adequate review on his motion to reconsider his sentence, and that it also impairs this court's review of the sentence on appeal. He claims that, without a record of the trial court's reasoning, this court cannot meaningfully evaluate the trial court's exercise of discretion. He suggests that we should find that his motion to reconsider his sentence was "implicitly a request that the court explain its reasoning" and that it "oblige[d] the trial court to explain why it imposed the sentence it did."

¶ 15 The defendant acknowledges that our supreme court, in *People v. Davis*, 93 Ill. 2d 155, 162-63 (1982), held that the legislature's use of the word "shall" in the predecessor version of

section 5-4.5-50(c) was permissive, not mandatory, and that since *Davis*, this court has repeatedly held that trial courts may impose sentence without giving any indication of their reasoning. Nevertheless, defendant advocates that we depart from this line of precedent. In doing so, he relies on the concurrences in *People v. Bryant*, 2016 IL App (1st) 140421, ¶¶ 25-35 (Hyman, J., specially concurring), and *People v. Jackson*, 375 Ill. App. 3d 796, 804-10 (2007) (McDade, J., specially concurring) (Wright, J., concurring in part and dissenting in part).

¶ 16 We must decline the defendant's invitation to depart from *Davis*. We are bound to recognize *Davis* as controlling authority, as it is a decision of our supreme court. See *Blumenthal v. Brewer*, 2016 IL 118781, ¶ 28 ("overruling a decision by the Illinois Supreme Court is an action the appellate court has no authority to take"); *People v. Artis*, 232 Ill. 2d 156, 164 (2009) (supreme court decisions are "binding on all lower courts"). Our court has repeatedly followed *Davis* and concluded that a trial court is *not* required to explain its reasons for imposing a particular sentence. See, e.g., *People v. Barnes*, 2017 IL App (1st) 143902, ¶ 95 ("a trial court is not required to specify on the record the reasons for the sentence imposed"); *People v. Wilson*, 2016 IL App (1st) 141063, ¶ 11 (a sentencing court "has no obligation to recite and assign a value to each factor" it considers); *People v. Gordon*, 2016 IL App (1st) 134004, ¶ 51 ("[t]he trial court is not required to detail precisely for the record the exact process by which it determined the penalty"). The concurring and dissenting opinions cited by the defendant "do not change our well-established precedent" on this issue. *Barnes*, 2017 IL App (1st) 143902, ¶ 95. Thus, we reject the defendant's first challenge to his sentence.

¶ 17 We turn to the defendant's second claim, that his sentence is excessive. He argues that the trial court did not adequately consider the hardships he endured in childhood, specifically,

that he was the second-oldest of 10 children, had no meaningful contact with his father, and was subjected to such abuse by his mother that DCFS removed him from her custody. The defendant also notes that he was initiated into a gang when he was 12 years old, that his fellow gang members were “poor role models” who smoked marijuana daily, and that it was “at that point” that he first became involved in the criminal justice system as a juvenile in 2006. With regard to his criminal history, the defendant asserts that “the seriousness of his convictions was declining, not rising, from aggravated robbery in 2009 to possession of a controlled substance in 2013,” such that there was no need for a harsh punishment in this case to “cut off a rising trend of criminality.” Finally, the defendant argues that the circumstances of the offense were “not particularly aggravating” as none of the robbery victims was harmed. He maintains that the minimum sentence, 21 years, would be adequate.

¶ 18 Sentencing decisions are entitled to great deference on appeal because the trial court, “having observed the defendant and the proceedings, has a far better opportunity to consider” relevant factors, such as the defendant’s “credibility, demeanor, general moral character, mentality, social environment, habits, and age.” *People v. Fern*, 189 Ill. 2d 48, 53 (1999). We will not disturb a sentencing determination absent an abuse of discretion. *People v. Hauschild*, 226 Ill. 2d 63, 90 (2007). A sentence within the permissible statutory range will be deemed excessive and the result of an abuse of discretion only where it 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).

¶ 19 Here, the record indicates that the trial court was well aware of the mitigating factors identified by the defendant on appeal. Not only were these factors included in the PSI report, but



defense counsel also highlighted at sentencing the lack of any injuries to the robbery victims, the defendant's youth, and the difficult circumstances of the defendant's childhood. Where mitigating evidence has been presented, it is presumed that the trial court considered it. *People v. Sven*, 365 Ill. App. 3d 226, 242 (2006).

¶ 20 Armed robbery is a Class X offense that carries a mandatory add-on of 15 years when the offender is armed with a firearm. 720 ILCS 5/18-2(a)(2), (b) (West 2014). Here, the trial court sentenced defendant to 14 years in prison, with the mandatory firearm add-on of 15 years, for a total of 29 years. The base term of 14 years is well within the permissible Class X sentencing range of 6 to 30 years. 730 ILCS 5/5-4.5-25(a) (West 2014). Given the trial court's stated consideration of the PSI and the relevant aggravating and mitigating factors, we cannot find that the sentence imposed is "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Stacey*, 193 Ill. 2d at 210. Accordingly, we find no abuse of discretion.

¶ 21 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 22 Affirmed.