2018 IL App (2d) 170674-U
No. 2-17-0674
Order filed November 7, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Lake County.
Plaintiff-Appellee,	)	
v.	)	No. 96-CF-54
JAMES L. EDWARDS,	)	Honorable Daniel B. Shanes,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Hudson and Justice Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion in sentencing defendant to the maximum extended term of 60 years' imprisonment for armed robbery: the court properly relied on evidence of other crimes, to which defendant confessed, even though in the same statement defendant falsely confessed to an additional crime; despite the mitigating evidence, which the court expressly considered, defendant's sentence was justified by the aggravating evidence, most notably defendant's extreme criminal history.

¶ 2 In 1997, a jury convicted defendant, James L. Edwards, of armed robbery (720 ILCS 5/18-2(a) (West 1996)). He received an extended-term sentence of 60 years' imprisonment. See 730 ILCS 5/5-8-2(a)(2) (West 1996). Defendant was eligible for the extended-term sentence,

based on a 1977 conviction of murder (Ill. Rev. Stat. 1977, ch. 38, ¶ 9-1) for which he received 25 to 50 years and was paroled in 1991. See 730 ILCS 5/5-5-3.2(b) (West 1996).

¶ 3 In 2015, defendant petitioned for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2014)). He sought a new sentencing hearing because the trial court had considered in aggravation his conviction of a murder for which he had since been exonerated. The State did not contest the petition. In 2017, after a sentencing hearing, the court reimposed an extended-term sentence of 60 years. Defendant appeals. We affirm.

¶ 4 On January 4, 1996, defendant entered the Roberts Roost Motel in Waukegan and rang the bell for the apartment of the owner, Hasmukh Shah. Shah let him in. Shah's wife Gita, his daughter Swati, and his friend Ramesh Patel were with him; Shah's son Mitul was in the basement. Defendant pointed what appeared to be a gun at Shah, Gita, Swati, and Patel and ordered them to sit on the floor. He took $80 or $90 from a desk drawer, ordered his captives downstairs, and left the motel. Shah soon got to the lobby; police had already responded to Mitul's emergency call and had apprehended defendant, who was sitting in a police car. Shah and Patel identified him as the robber. Later, the police found the "gun," which was actually a cigarette lighter.

¶ 5 At about 8 p.m., the police took defendant to the police station, where he signed a *Miranda* waiver. He was questioned, with several long breaks, until the end of January 5. Defendant confessed in writing to the armed robbery and several other offenses as well. Most important here was the murder of Fred Reckling, who had been beaten to death in December 1994 inside his store in Waukegan. Defendant also confessed to the murder of Sylvia Greenbaum in Cleveland, Ohio, in February 1974; the armed robberies of a hotel, a bank, and a hair salon in Waukegan in 1995; and the burglary of a grocery store in Waukegan in 1995.

¶ 6 In 1996, defendant was charged with Reckling's murder and found guilty. In November 1996, the trial court, Judge Christopher C. Starck presiding, sentenced him to life in prison. Meantime, a warrant had been issued for his arrest for the murder of Greenbaum. On January 23, 1996, he was charged with aggravated murder, kidnapping, and aggravated robbery.

¶ 7 In the present case, defendant's jury trial began on February 3, 1997. Judge Starck presided. On February 5, 1997, the jury found defendant guilty.

¶ 8 The court ordered a presentence investigation report (PSIR). It revealed the following. Defendant was born January 8, 1949. In 1966, in New York, he was adjudicated delinquent based on petty larceny and sentenced to three years in prison. He received mental-health treatment and was eventually discharged from parole. In 1972, in New York, defendant was convicted of possessing a dangerous weapon and was sentenced to conditional discharge.

¶ 9 In 1974, in Chicago, defendant beat 83-year-old Cora Lee Young and tied her up. Later, she died of her injuries. Defendant was charged with her murder. Initially, he was diagnosed with paranoid schizophrenia and found unfit to stand trial but, in 1975, he was released from hospitalization. In 1977, he was found guilty and sentenced to 25 to 50 years in prison.

¶ 10 In prison, defendant was cited for several disciplinary infractions, including starting a fire in his cell and sexually assaulting another inmate. However, he also provided services to inmates who were mentally disturbed or needed legal help. While incarcerated, defendant took college courses. In 1991, he was paroled after an examining psychologist found no evidence of psychopathology. While on parole, he received a college degree and took several courses toward a master's degree. On January 4, 1996, defendant's wife petitioned for and received an emergency order of protection against him; the case was closed 21 days later.

¶ 11 The PSIR stated that defendant had had no contact with his biological father until they met at the funeral of the man whom he had thought was his father. He stated that his mother had been unable to provide for him and his six siblings.

¶ 12 On April 4, 1997, the trial court held a sentencing hearing. The court took judicial notice of the evidence presented at the sentencing hearing in the Reckling case. The court also admitted letters that defendant had written to Michael Quinn, a detective who had interrogated him, and Julie Martin, who had prepared the PSIR. The court heard no other evidence.

¶ 13 We summarize the evidence introduced at the Reckling case's sentencing hearing. Two Cleveland police detectives, Edward Kovacic and Edward Prinz, testified about the Greenbaum case. Kovacic testified that he went to the scene of the homicide and saw Greenbaum's body lying on the floor of her car, with five gunshot wounds. The car appeared to have been ransacked. In January 1996, Kovacic spoke to Waukegan officers who had arrested defendant; they sent him a copy of his confession, which was consistent with the circumstances of the killing. Prinz testified that, in January 1996, he compared copies of defendant's fingerprints, faxed from the Waukegan police department, with two latent fingerprints recovered from Greenbaum's car. All of the prints were made by the same person.

¶ 14 Two witnesses testified about the grocery store burglary. Jacal Assad, the store's owner, testified that the break-in occurred on December 29 or 30, 1995. Money and food stamps were taken. William Valko, a Waukegan police officer, testified that he went to the store to gather evidence and saw that a burglar had entered by cutting a hole in the roof.

¶ 15 Raymond McNally, a Chicago police detective, testified that he investigated Young's death in March 1974. Her hands and legs had been bound; the left side of her forehead had been crushed; and she had a puncture wound under her nose. Defendant confessed to the murder.

¶ 16 Raphael Turner testified that, on December 31, 1995, he was working night security at the Best Inn in Waukegan. Two other employees were there. At about 1:20 a.m., a man entered, asked about rooms, and left. About 10 minutes later, he returned, pulled out a gun, held it on the three employees, and forced them behind the front counter. He ordered them into the office and then into a closet, took cash, and left. Later that day, Turner identified defendant as the perpetrator. He did so again at the hearing.

¶ 17 Three witnesses testified about defendant's robbery of a HairCrafters salon in Waukegan on the morning of December 15, 1995. Maggie Bojniewicz, who had been the receptionist that day, recounted that defendant entered the salon, pushed her over the counter, and grabbed her by the neck while sticking a sharp object into her side. He told the other people to get down and threatened to kill them if they did not cooperate. Bojniewicz opened the cash register. Defendant took the money and left. Bojniewicz identified defendant shortly after the robbery and again at the hearing. Tina Goglin and Laura Maher, who had been stylists at the time of the robbery, corroborated Bojniewicz's account and identified defendant as the perpetrator.

¶ 18 Gabriel Santana and Martha Velazquez testified that, on December 20, 1995, defendant robbed the First of America Bank in Waukegan while they were working there as tellers. Defendant told Santana that he had a gun. He did not display one, but he put his hand into his coat pocket as he demanded the money. Both witnesses identified defendant in court and testified that they identified him shortly after the robbery. Waukegan police detective Luis Marquez testified that, on January 5, 1996, he interviewed defendant and typed up a statement that defendant signed. Defendant said that he robbed the bank and spent the money on drugs.

¶ 19 Alberta Edwards, defendant's wife, testified that, on January 3, 1996, she told him to leave their home because he was drunk and argumentative. He did but returned 10 minutes later.

She would not let him in, so he threw a flower pot through the window. She called police, who arrested defendant. The next day, she obtained an order of protection against him.

¶ 20 Darin Chansky and Rob Lechner, both of the Lake County sheriff's department, testified about defendant's conduct in jail. Chansky testified that, on April 1, 1996, after defendant's pod had been placed on lockdown, defendant repeatedly shouted vulgarities at him. As a result, defendant was transferred to the maximum-security unit. Lechner testified that, on June 22, 1996, he cited defendant for a minor infraction and took him to the "desk." Defendant shouted obscenities and was slow to return to his "room." Defendant had, however, obtained a high status with other inmates for helping them with their cases.

¶ 21 Hasmukh, Gita, and Swati Shah and two police officers testified about the Roberts Roost robbery. Their testimony was consistent with the evidence in the present case.

¶ 22 Quinn testified as follows. On January 4, 1997, he took a written statement from defendant. The statement included confessions to the Roberts Roost robbery, the Best Inn robbery, the HairCrafters robbery, the grocery store burglary, and the murders of Greenbaum and Young. It was consistent with the evidence from other sources about these crimes.

¶ 23 Defendant called several witnesses, primarily on his psychological and psychiatric history. Dr. Henry Conroe, an examining psychiatrist, testified as follows. On July 19, 1996, he interviewed defendant for three hours; Dr. Michael Kovar performed psychological tests on defendant. Defendant told Conroe that, when he was 11 months old, he was hospitalized for seven months without being able to move. His mother did not visit him. When he returned home, he did not get along with his nine siblings, who all had different fathers. Defendant ran away from home at 14. In November 1966, a court ordered him committed, based on multiple diagnoses of psychosis with psychopathic personality. Defendant had said that he had always

been God and had created the universe 66 trillion years ago. After his commitment, defendant was placed on an antipsychotic drug.

¶ 24 Conroe testified that defendant was released from institutionalization in New York in 1967. The next psychiatric records appeared in March 1974. In jail that year, defendant set fire to his bed and tried to cut his wrists. In July 1974, a doctor who examined him found him unfit for trial, based on paranoid schizophrenia. Defendant was institutionalized. A doctor who examined him diagnosed him with schizophrenia, paranoid type. By mid-1975, he had progressed to the point where several doctors reported that he was in remission and was fit.

¶ 25 Conroe testified that in his opinion defendant suffered from schizotypal personality disorder. People with this disorder depend on an external structure or routine to keep them focused. Defendant had had a structured environment in prison and had been able to use his intelligence to help other inmates. After his release in 1991, defendant did well at first, obtaining work helping ex-offenders to adapt to society. He also completed his college degree. However, he was fired from his job after about a year because someone in the organization learned that he had a criminal record. He also became involved with Alberta and used more drugs and alcohol.

¶ 26 Kovar testified as follows. He examined defendant in four sessions lasting more than 17 hours. His primary diagnosis was schizotypal personality disorder. The other diagnoses were nonspecified cognitive disorder and polysubstance abuse. Prison provided defendant the structured environment that helped him to adapt, and he had performed useful work as a prison law clerk. Being released from prison lessened the structure in his environment and required him to address potentially stressful matters such as providing for his own housing and food.

¶ 27 We return to the sentencing hearing in the present case. In arguing for the maximum extended-term sentence, the prosecutor called defendant manipulative, as shown by his

vindictive letters to Martin and Quinn and his ability to convince the examining psychologist in 1991 that he showed no signs of psychopathology. He had premeditated the Roberts Roost robbery and had shown insensitivity to the victims by invading their home and threatening them with what looked like a gun held at close range.

¶ 28 The prosecutor emphasized defendant's previous offenses as evidence of his cruelty. Defendant had brutally beaten the 83-year-old Young in her home and forced his way into Greenbaum's car and repeatedly shot her. Also, defendant had broken into Reckling's store late at night and killed him. Further, defendant had threatened a young teller with a gun when he robbed the bank; had threatened a young woman with a gun when he robbed the hair salon; and had violated numerous prison rules. Defendant's psychological history did not mitigate his three murders: he committed all of them after careful planning. Also, the Shahs reported continuing trauma and fright from being robbed at home.

¶ 29 The prosecutor contended that no factors in mitigation applied. In aggravation, the armed robbery had caused or threatened serious harm; defendant had a long record of delinquency and criminality; and a long sentence was needed to deter others from committing similar crimes. The prosecutor noted that defendant was eligible both to serve an extended-term sentence, based on the 1977 murder conviction, and to serve the sentence consecutively to the life sentence in the Greenbaum case. Consecutive sentencing was warranted by the need to protect the public from further criminal conduct by defendant. See 730 ILCS 5/5-8-4(b) (West 1996).

¶ 30 Defendant argued that consecutive sentencing was not needed to protect the public, because he was already serving life for the murder of Reckling. Further, because he used a cigarette lighter disguised as a gun and did not physically injure anyone, he had not caused or threatened serious harm. Also mitigating was his long history of mental illness.

¶ 31 Judge Starck imposed a sentence of 60 years' imprisonment. He explained his decision as follows. The only possible factor in mitigation was that defendant had not used a real gun in the robbery. Apparently, he had not contemplated serious physical harm, "although that type of situation when someone forcibly enters a person's residence with the intent to commit a theft is highly conducive to physical harm." There were several factors in aggravation. The murders of Young and Reckling were foremost. Defendant had yet to be tried for Greenbaum's murder, but there was considerable evidence against him, including the fingerprints that matched his own. Although defendant had improved his education and helped other inmates, he had engaged in a crime spree that began in 1994 and lasted into the beginning of 1996. Judge Starck continued:

> "The Court is not unaware that [defendant] has been sentenced to a term of life in prison based on the murder of Mr. Reckling, and the Court incidentally does not consider that as a matter of aggravation specifically as far as extended term because that occurred after this offense, but the Court does consider that as to his conduct and the applicability of other provisions and statutes in this case.
>
> And based on his conduct and his behavior, the violent nature of [defendant], the predatory nature of [defendant], the Court does believe that an extended term sentence is necessary and further believes that a 60-year term of incarceration is necessary in this case."

¶ 32 Further, consecutive sentences were necessary to protect the public from further crimes by defendant, who was incapable of altering his conduct.

¶ 33 In May 1997, defendant was extradited to Ohio and tried there. The evidence against him included his confession to the Waukegan police; the prints from inside Greenbaum's car; and evidence that the murder scene was located about two blocks from where defendant, who had

gone by the name Divine G. Epps, had resided at the time. The jury found him guilty of all charges. Defendant received life for aggravated murder; 5 to 15 years for kidnapping; and 25 years for aggravated robbery.

¶ 34 On October 6, 1998, we affirmed defendant's conviction and sentence in the present case. *People v. Edwards*, No. 2-97-0674 (1998) (unpublished order under Supreme Court Rule 23). On December 10, 1998, the Court of Appeal of Ohio affirmed the judgment in the Greenbaum case. *State v. Epps*, No. 73308, 1998 WL 855627 (Ohio Ct. App. Dec. 10, 1998). On December 31, 1998, we affirmed the judgment in the Reckling case. *People v. Edwards*, 301 Ill. App. 3d 966 (1998).

¶ 35 In 1999, defendant filed petitions for relief in the Reckling case and this case. The trial court summarily dismissed the petitions. We affirmed. *People v. Edwards*, Nos. 2-99-1130 & 2-99-1212 cons. (2001) (unpublished order under Supreme Court Rule 23).

¶ 36 On June 27, 2005, defendant moved for forensic testing of evidence in the Reckling case. See 725 ILCS 5/116-3 (West 2004). The trial court denied his motion. We affirmed (*People v. Edwards*, No. 2-07-1133 (2010) (unpublished order under Supreme Court Rule 23)), but the supreme court directed us to vacate the judgment and ordered the trial court to grant the motion (*People v. Edwards*, 236 Ill. 2d 561 (2010) (supervisory order)). After DNA testing implicated Hezekiah Whitfield as Reckling's murderer and exonerated defendant, he filed a successive petition under the Act for relief from the judgment. See 725 ILCS 5/122-1(f) (West 2010). On May 29, 2012, the trial court granted the petition and dismissed the charge. The time that defendant had served was credited against his time in the present case. In 2014, Whitfield was tried and convicted. In 2017, we affirmed that judgment. *People v. Whitfield*, 2017 IL App (2d) 140878.

¶ 37 On November 19, 2015, defendant moved for leave to file another successive petition, alleging that the sentencing hearing in the present case had been tainted because the trial court had considered his conviction of murdering Reckling. The State did not oppose the petition. The trial court, Judge Daniel B. Shanes presiding, granted the petition.

¶ 38 On July 18, 2017, the court held a new sentencing hearing. It noted that defendant was eligible for an extended-term sentence. He was also eligible for day-for-day good-conduct credit, and his time served in the Reckling case would be credited against his sentence. Over his objection, the court admitted the testimony from the sentencing hearing in the Reckling case.

¶ 39 In argument, the prosecutor stated as follows. Defendant had a lengthy and serious criminal history. The attacks on Greenbaum and Young, two elderly women, were extraordinarily brutal. In 1995, defendant went on a crime spree, committing several robberies in December alone and using a gun in two of them. Defendant's robbery of the Shahs had been premeditated and included the invasion of their home. Noting that Judge Starck had sentenced defendant to 60 years' imprisonment, the prosecutor observed that, since then, defendant had been convicted of the murder of Greenbaum. Therefore, a 60-year sentence was still proper.

¶ 40 Defendant argued as follows. When he murdered Young in 1974, he had been suffering from severe psychological disorders. He was originally ruled unfit to stand trial. As for the various 1995 offenses that had been the subject of testimony at the 1997 sentencing hearing, there was no physical evidence connecting him to them and he had never been convicted of any of them. The evidence of his guilt included confessions that he made contemporaneously with his false confession to the Reckling murder. Defendant argued that the court should consider the good that he had done while incarcerated and that he had changed in the last 20 years. He also noted that he had used a lighter in the Shah robbery and that nobody had been physically hurt.

¶ 41 In pronouncing sentence, the court stated as follows. Defendant's offense was "unjustifiable in the extreme"; he had entered a family's home and robbed them at what looked like gunpoint. Defendant was almost 69 years old and had earned credits toward a master's degree, so he did understand the psychological harm that the Shahs had undergone. Although causing or threatening harm was inherent in armed robbery, the degree to which defendant had done so was a factor in aggravation: there were several victims, including children.

¶ 42 The court noted that defendant had a long history of delinquency and criminality, including two murders and several criminal acts that did not lead to convictions. Defendant had had a difficult upbringing and had long struggled with psychological disorders. His poor mental health played a role in the murder of Young, an 83-year-old woman "who was tied up and killed in a way that was somewhat horrific." The court continued:

> "If we look at what you did [after being released in 1991] it's clear to me you were still struggling with a lot of issues. Unfortunately your struggling with a lot of issues caused a lot of harm to a lot of other people. The evidence shows, and when I say evidence for reasons particular to this case the Court is not ascribing much weight to the statements the defendant made in early 1996 regarding some of these offenses, *** the evidence shows you engaged in a burglary in a grocery store in Waukegan in 1995. You got robbery, armed robbery, New Year's Eve 1995, the Best Inn Hotel when you locked the people in a closet. Again good news is nobody long term physical injury [*sic*], but very scary, very dangerous activity.
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> Again December 1995, the robbery at the hair place ***, a few days later robbery at the bank there too. December 1 [*sic*], 1995, was not a good month for you. Something was going on. Again you were struggling with a number of issues, but those struggles led

> to a crime spree worthy of a TV show. Then the armed robbery *** of the Shah family at the hotel.
>
> The evidence in this case shows that you were convicted of, and the Court's considered there maybe [*sic*] concerns about the evidence underlying that conviction in Ohio, but it stands today convicted of [*sic*] in the late 1990's, the 1970's murder of the lady in Ohio."

¶ 43 The court noted, "There are other things the law tells a judge to consider such as imposing a sentence necessary to deter others from comitting [*sic*] the same crime, let's only hope I do that." Also, "I don't know what you were thinking when you did this thing at Roberts Roost when you shocked that family. It was a lighter, not a real gun. In a way I'll give you credit for that. Maybe there was something in the back of your head that said don't bring a real gun to this. It can go really bad, bad as it was."

¶ 44 The court stated that there were no other factors in mitigation, except that defendant had committed his offenses while in his mid-40s and was now nearly 69. The court told him, "[F]or the first half of your life you were a one man crime wave, truly a danger in society, but maybe in the last 15 years you matured and had a better understanding of the actions that you made and the choices that you made before you got locked up on this."

¶ 45 The court pronounced a sentence of 60 years. Defendant would receive credit for time spent in custody since January 6, 1996, and was eligible for 50% good-conduct credit. Defendant moved to reconsider the sentence, arguing in part that the wrongful conviction in the Reckling case called into doubt his guilt of the other offenses to which he had confessed contemporaneously. The court denied the motion and defendant timely appealed.

¶ 46 On appeal, defendant contends that the trial court abused its discretion in sentencing him to the maximum extended term of 60 years' imprisonment. He argues in part that the court erred in considering the evidence that he committed numerous crimes for which he was not charged or convicted and to which he confessed only when he confessed untruthfully to the Reckling murder. He argues further that, even given these other offenses, his sentence was excessive in view of his difficult background, his long history of mental illness, and the circumstances of the present offense, in which he did not cause or threaten serious physical harm to the victims.

¶ 47 We hold that the trial court did not act unreasonably in considering defendant's uncharged but well-evidenced other offenses and that his lengthy sentence was not an abuse of discretion, given the strong evidence in aggravation. Therefore, we affirm.

¶ 48 A trial court's sentencing decision is entitled to great deference on appeal, and we will not disturb a sentence that is within the statutory range unless the court abused its broad discretion. *People v. Cox*, 82 Ill. 2d 268, 281 (1980).

¶ 49 Defendant's primary argument centers on the uncharged offenses at the Best Inn, HairCrafters, bank, and grocery store. He confessed to these offenses in the same statement in which he made his discredited confession to murdering Reckling. Defendant maintains that the confessions to the other offenses were unreliable because they were "closely connected" to the false confession, which, he states, was the product of police misconduct. We disagree.

¶ 50 The evidentiary standards for sentencing are much less rigid than those used at trial. *People v. Jackson*, 149 Ill. 2d 540, 547 (1992); *People v. Rose*, 384 Ill. App. 3d 937, 940 (2008). "The source and type of information that the sentencing court may consider is virtually without bounds." *Id.* at 941. To be admissible at a sentencing hearing, evidence need only be reliable and relevant, a determination that is within the court's discretion. *Id.*

¶ 51 We cannot say that the trial court abused its discretion in admitting and considering the evidence of defendant's uncharged offenses. This evidence consisted of more than just his admissions in the written statement. Of the four uncharged offenses, three were proved by other evidence. Turner identified defendant both shortly after the Best Inn robbery and at the 1997 hearing as the robber. Three people identified defendant shortly after the HairCrafters robbery and testified at the hearing that he was the robber. Two people identified him shortly after the bank robbery and testified that he was the robber. All these eyewitnesses had excellent opportunities to view defendant at the time. Only the grocery store burglary, arguably the least serious offense in aggravation, was not supported by an eyewitness identification. Defendant put on no evidence to the contrary on any offense.

¶ 52 The court reasonably decided that defendant's false confession to the Reckling murder did not foreclose considering other offenses that were proved by much more than the statement that included the false confession. Although defendant did not tell the truth when he confessed to murdering Reckling, it did not automatically follow that he did not commit the other offenses, or even that his admissions to them were necessarily the product of police misconduct. But most important, the evidence of guilt comprised much more than his statement.

¶ 53 At most, the admission of the evidence of the grocery store burglary was harmless error; with or without it, the court was correct that defendant went on a crime "spree" late in December 1995 and early in January 1996. Moreover, the two most serious offenses in aggravation—the murders of Young and Greenbaum—were supported by final judgments, affirmed on appeal. Defendant does not seriously contest that these two convictions were properly considered.[1]

[1] Defendant does contend that, absent the January 1996 statement, "there is no reason to believe [that] defendant would have been offered as a potential suspect in those unsolved crimes

¶ 54 Defendant relies on *People v. Dennis*, 373 Ill. App. 3d 30 (2007). That opinion, however, simply has no application here. In *Dennis*, we held that, in the defendant's trial for attempted murder and aggravated battery with a firearm, the court erred in admitting statements that he made at a hospital and other statements that he made later at the police station. We explained that the earlier statements had been involuntary. *Id.* at 44-46. We then held that the later statements were inadmissible because the taint from the earlier violation had not been attenuated. *Id.* at 50. This was because the questions that the police asked the defendant at the station were

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*** or that his fingerprint would have been sent to Ohio for comparison with a print found there." Even if this assertion is true, it does not support his contention that the Greenbaum murder was insufficiently proved for the trial court to consider it at the 2017 sentencing hearing. A jury found defendant guilty of that murder and his conviction was affirmed. And the judgment was upheld against a collateral attack. See *Epps v. Ohio Authorities*, No. 1:01 CV 2163, 2007 WL 141963 (N.D. Ohio Jan. 17, 2007). The federal court held in part that defendant's claim that the police violated his fifth-amendment rights was procedurally defaulted because he had failed to raise it in his appeal to the Supreme Court of Ohio. *Id.* at 9. Although an Illinois court dismissed the charge in the Reckling case and exonerated defendant of the murder, no Illinois court has ever suppressed his statement.

That the Ohio police *might* have obtained an evidentiary windfall was, at most, a matter for the Ohio courts and any court that reviewed defendant's conviction in the Greenbaum case. The trial court here did not have to turn a blind eye to defendant's valid conviction of murder. Also, as we explain elsewhere, the exclusionary rule did not bar the court from considering defendant's admission to that offense or the uncharged offenses, still less from hearing other evidence that defendant committed these offenses.

the product of the statements obtained at the hospital; no intervening circumstances purged the taint; little time passed between the two interrogations; and the police misconduct had been flagrant. *Id.* at 47-50.

¶ 55 Defendant attempts to fit this case within *Dennis* by equating his false confession with the first set of statements in *Dennis* and the other confessions with the second set of statements. However, the equation is too much of a stretch. *Dennis*'s holding is predicated upon the exclusionary rule, which does not apply in sentencing hearings. See *Rose*, 384 Ill. App. 3d at 944. And, although defendant's confession to the Reckling murder was false, it was never suppressed. More important, it does not follow that his other admissions were the product of that false confession, much less of whatever unknown police misconduct might have produced it. And finally, as noted, the admissions were corroborated by considerable other evidence.

¶ 56 The issue in this case is not the effect of the exclusionary rule but only whether the trial court abused its discretion in admitting evidence of the other crimes. We cannot say that it did, especially as the court's conclusion that defendant committed those other crimes (except for the grocery store burglary) was based more on eyewitness testimony than on his statement, which the court was aware was partly incorrect. Indeed, the court stated that it was "not ascribing much weight to the statements [defendant] made in early 1996 regarding some of these offenses." We hold that defendant's first argument lacks merit.

¶ 57 We turn to his second argument on appeal. He contends that, even accepting the admission of the other-crimes evidence, his sentence was excessive. Defendant concedes that his criminal history is both serious and extensive, but he maintains that it "can arguably be a product of an equally indisputable history" of childhood neglect, mental illness, and drug abuse. Defendant notes that his mental health had improved over the decades and that, while in jail and

prison, he had earned his college degree and assisted other inmates in commendable ways. Defendant also maintains that, aside from his criminal history, few factors in aggravation apply and that his use of a cigarette lighter instead of a gun showed that he did not intend to inflict physical harm on the victims but only to rob them.

¶ 58 Defendant's argument is unpersuasive. In essence, he requests that we reweigh the same factors in aggravation and mitigation that the trial court considered in deciding on his sentence. It is not, however, our prerogative to substitute the exercise of our discretion for that of the trial court. The court was fully aware of defendant's traumatic childhood, his psychiatric history, and his substantial accomplishments while incarcerated (as well as his serious misconduct while incarcerated). The court was also aware that defendant's use of a cigarette lighter rather than an actual gun limited the potential and actual harm done the victims to serious psychological trauma without physical injury. Indeed, the court specifically mentioned all of these factors in pronouncing sentence.

¶ 59 Moreover, defendant's concession that his criminal history was a serious factor in aggravation is all too well-taken. That history includes two brutal murders and numerous other offenses, three of which (the Best Inn, HairCrafters, and First of America robberies) involved the use or threatened use of a weapon. Defendant's history of offending stretched back over half a century. Further, to the extent that defendant relies on his psychiatric history, that factor does not cut only one way. Both his history and the expert testimony indicated that he behaved relatively well in prison, because his psychological deficiencies were more easily controlled in that structured environment than in the relative freedom of the outside world.

¶ 60 Finally, defendant notes that his sentence for the Greenbaum murder will be served consecutively to his sentence in this case, so that there is no danger that "he will simply 'walk

away' " after his sentence here is done. Defendant contends that it will serve the interests of justice to cap his sentence in this case to time served. Again, defendant requests that we substitute our discretion for that of the trial court and drastically reduce a sentence that was well supported by the pertinent considerations in aggravation and mitigation. We note parenthetically that this argument also cuts both ways: he concedes that, even if we grant him all the relief that he seeks, he will achieve no more than a change in residence.

¶ 61 For the foregoing reasons, the judgment of the circuit court of Lake County is affirmed. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 62 Affirmed.