2019 IL App (2d) 170807-U
No. 2-17-0807
Order filed June 25, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. ANTWAUN BOHANNAN, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Du Page County. No. 16-CF-477 Honorable John J. Kinsella, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Hutchinson and Hudson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not commit plain error in sentencing defendant to 8 years' imprisonment (on a 4-to-15 range) for residential burglary: the court's comments about defendant's background and character were supported by the evidence, and the court did not rely on personal beliefs or private knowledge.

¶ 2 Defendant, Antwaun Bohannan, pleaded guilty to residential burglary (720 ILCS 5/19-3(a) (West 2014)). The trial court sentenced him to eight years' imprisonment. He appeals, contending that, in imposing the sentence, the court relied on improper factors not based on the evidence and considered its personal beliefs and private knowledge. We affirm.

¶ 3 The factual basis for defendant's plea showed that he and codefendant Andre Hill fled the scene of a reported theft at a railroad yard. As they attempted to escape, they ran to a nearby home, kicked in the door, and ran into a bedroom. The resident, Danielle Eggert, left when she realized that they were in the house. While inside, Hill, with defendant's assistance, took $140 from a bedroom. When officers arrived, defendant and Hill went outside peacefully and were arrested.

¶ 4 At a joint sentencing hearing for defendant and Hill, Stan Bailey testified that he was an investigator for the Burlington Northern Santa Fe Railroad (BNSF) Police Department. In January 2016, he was investigating a series of thefts at the BNSF's Willow Springs yard. As part of the investigation, surveillance cameras were installed at various locations in the yard. Bailey had attributed the thefts to the 057 Gangster Disciples street gang, resulting in some arrests in January of that year.

¶ 5 On March 12, 2016, Bailey received a text alert that the cameras had detected unauthorized activity at the Willow Springs yard. Bailey went to the yard, where the local police had already arrived. Bailey learned that three men had fled on foot. Two cars also left the area. Bailey's car was almost hit by one driven by a man whom he recognized as a member of the 057 Gangster Disciples.

¶ 6 Bailey learned that two of the men had fled into a nearby home. When he got there, the front door appeared to have been kicked in. Bailey identified two men who came out of the house as defendant and Hill. Back at the railroad yard, Bailey discovered boxes of merchandise, including tablets and telephones, outside of the railroad cars, as well as bolt cutters. Bailey explained that railcars are secured with seals and that the bolt cutters could have been used to break the seals.

¶ 7 Pursuant to his investigation, Bailey monitored Hill's calls from jail. In one such call, Hill stated that "they" needed to "get" Bailey, referred to defendant by the name "Twink," and gave Bailey's address.

¶ 8 Shandra Thompson read a letter in which she stated that she was pregnant and needed defendant to provide for her and her baby. Defendant also helped care for his autistic brother.

¶ 9 The presentence report showed that Eggert was " 'a mess for about a day and a half' " after the incident, but eventually calmed down. She and her husband installed stronger doors and planned to get a security system. She no longer walked her dog near the railroad tracks. Defendant said that the break-in " 'happened in the moment' " and that he felt bad for Eggert.

¶ 10 Defendant had a juvenile adjudication of burglary. He was sentenced to probation, which was terminated unsatisfactorily. He had adult convictions of burglary and unlawful use of a weapon by a felon. He was on mandatory supervised release (MSR) for the latter conviction when arrested in this case. In addition, defendant was sentenced in Cook County to three years' imprisonment for the railroad burglary. Defendant had several other arrests, including one for "Street Gang Contact While on Parole," but the charge was dismissed the following day.

¶ 11 Defendant reported that he lived with his grandmother, who had health issues. He described the neighborhood as a " 'nice, calm block.' " However, he got involved with the " 'wrong crowd' " in the neighborhood where the rest of his family lives.

¶ 12 Defendant reported a good relationship with his parents, both of whom were "disappointed" by his arrests. In 1990, his father was sentenced to a year in prison for possession of a controlled substance. His mother was arrested for domestic battery in 2002, but the case was dropped. Defendant had 12 siblings and half-siblings, only one of whom appears to have a criminal record. One half-brother, Frederick Evans, was shot to death in 2009.

¶ 13 Thompson and defendant had been together since 2008, when they were 14 and 15 years old. She became pregnant with defendant's child in 2014 but miscarried. She was pregnant at the time of trial, but defendant was not the father. Defendant planned to " 'fit in' " with the child's life. Defendant had a child with Michelle Cooper. When he was 15 years old, defendant was shot twice and was reportedly hospitalized for 2 weeks.

¶ 14 From November 2015 through March 2016, defendant worked through a temporary employment agency. He could not recall the company's name. He reportedly worked 40 to 50 hours per week.

¶ 15 Defendant began using marijuana daily when he was 12 or 13. He also reported using Xanax, cough syrup, cocaine, and alcohol at least every other day. In 2012, defendant participated in drug treatment while incarcerated and continued with outpatient treatment after being released. He remained sober for "a period of time" and " 'felt good.' " However, he relapsed and continued using drugs and alcohol while he was on parole.

¶ 16 The prosecutor opined that the defendants were equally culpable for the offense. He argued that Hill made about $15,000 a week from the train burglaries and that he spent his "free time riding around smoking marijuana, popping pills." His family and friends "have bad reputations in the neighborhood for beating people up and fighting."

¶ 17 Turning to defendant, the prosecutor argued that, like Hill, defendant had a supportive family. However, defendant had never worked and "just stopped going to school." He argued that both defendants were members of the 057 gang. Although defendant claimed that he was "just labeled" a gang member, the "nature and circumstances" of the offense as evinced by Bailey's testimony, as well as the jail tapes, belied that fact. The prosecutor requested 13-year sentences for both defendants.

¶ 18 Defendant's counsel argued that there was no competent evidence that defendant was a gang member. He argued that the offense was almost not residential burglary, in that defendant made a spontaneous decision to enter the house while running from the police and did not intend to steal anything. Counsel contended that there was no evidence that defendant was leading the same lifestyle as Hill, and he expressed confidence "that the Court is not going to sentence [defendant] based on evidence that was presented against Mr. Hill."

¶ 19 Hill's counsel argued that Hill's father was frequently incarcerated and that, while other family members were supportive, Hill was raised without "a serious male role model." He joined the Gangster Disciples at 12 or 13 but had quit the gang by 2008.

¶ 20 The court noted that the facts of the case were unique in that defendants did not enter the house intending to commit a theft. The court noted that the offense "falls short of a home invasion, but it is getting close to that category of crime when you go into a home which you might reasonably expect is occupied in a violent and tumultuous manner." The court found aggravating that the motive for the offense was to escape arrest.

¶ 21 The court continued:

> "What I could say about Mr. Bohannan and, as well, Mr. Hill for that matter, is it's just startling the level of chaos that you were brought into, you were brought up in and you continue to life [*sic*] in. It's a lifestyle that is born of frustration, anger, poverty, lack of education, [and] early abuse.
>
> I don't know if it says in here, [but] I assume you're consuming drugs, smoking weed from the time you were very young. And here's where we end up and in a community and in a [c]ity that is ravaged by gangs and by violence."

¶ 22 The court found that both defendants were "gang affiliated," despite a lack of evidence that this specific offense was gang-motivated. The court continued:

> "So I wish somebody had some solutions to the utter chaos and violence that you gentlemen were born into and grew up in and continue to live in.
>
> And it's just astonishing, just astonishing that this continues, and it seems in a lot of ways getting worse, where it's [*sic*] you grow up in a life where your life is about today, what can I get today, what can I put in my pocket today. I don't think about tomorrow or next week or next month or about the consequences of relationships and children and bearing those children and supporting those children and being a father. All those things are out the window because I'm only worrying about what I'm doing now. How do I put money in my pocket today?
>
> And I hang out with people who have the same thinking and are prepared to do God awful things to accomplish their short-term goals of putting money in their pocket[s] and are willing to do pretty much anything. It's really quite sad, depressing that you folks, both of you, live in such a sad circumstance, but I can't do anything about that.
>
> I have to hold you accountable for what you did do and recognize that it's an awful tough hole to dig out of."

¶ 23 The court asked defendants whether they had finished high school. Hill replied that he had obtained his GED. Defendant replied that he had not. The court responded:

> "[T]he statistics tell us that the number one predictor of future poverty, and I'm not just talking about your poverty, [defendant's girlfriend's] poverty, your child's future poverty[,] is, number one predictor is lack of a high school diploma. So it starts at a very young age."

¶ 24 The court commented,

> "And when it's all chaos around you, you live a chaotic life; and you end up being chaotic adults, both of you grossly irresponsible.
>
> This is no way to live, going around stealing from folks, going around breaking into trains. Apparently, you can make a lot of money doing it. But it's quite sad that this is the life you chose."

¶ 25 The court observed that defendant's "criminal history is what was described in terms of this being a Class One nonprobational felony" and sentenced him to eight years' imprisonment, which had to be consecutive to a three-year sentence imposed for the weapons offense (for which defendant was on MSR when he committed this offense) and concurrent with the three-year sentence imposed in Cook County for the train burglary.

¶ 26 The court then turned its attention to Hill, stating:

> "And it is, also, as I said earlier, a sad reflection of what his life is and what his life is about, ride around smoking marijuana, pops pills, parties on a daily basis and commits crime and spends time with his son.
>
> [']I ride around smoking marijuana, popping pills and party on a daily basis.['] Unfortunately, that's what somebody somewhere along the line demonstrated to you what a man—how a man should live his life. I find it to be disgusting that your daily pursuit is impairment, intoxication, getting high and stealing from folks. It's a very sad commentary on your upbringing and what brought you here.
>
> And I think it was commented that you've never held a job and make more money on the street. Well, it's those choices that has [*sic*] you sitting here today."

The court later commented:

> "You got to [go to] school. You got to graduate high school. You got to get a job. You got to go into somebody and tell them, I am offering you my services. I'll work hard. You pay me money. And this is how I'm going to live my life.
>
> That's what some people choose to do, most people choose to do. But some people become leeches on society and just take and take advantage of people and circumstances whenever and wherever they can. And as I said, it's quite depressing that this is what goes on and the choices you've made."

¶ 27 The court sentenced Hill to nine years' imprisonment. The sentence would run concurrently with any sentence imposed in his railcar burglary case, which was still pending in Cook County.

¶ 28 Defendant moved to reconsider his sentence, arguing *inter alia* that the court found in aggravation that defendant was a gang member, a finding unsupported by competent evidence, and that the court expressed "special disdain" for residential burglary offenses. At a hearing on the motion, counsel renewed his argument that the court improperly found that defendant was a gang member. The court initially denied that it enhanced defendant's sentence based on any such finding. The court did not recall making a specific finding but cited evidence that defendant had been arrested for gang contact while on parole and had participated in the railroad burglary with Hill and at least one other person known to be a gang member. The court reiterated that defendant's alleged gang membership "was not the basis of a specific enhancement of the sentence."

¶ 29 Defendant appealed. We summarily remanded the cause for compliance with Illinois Supreme Court Rule 604(d) (eff. July 1, 2017). Counsel refiled the motion along with a Rule 604(d) certificate. At the hearing on the renewed motion, the court stated that it had specifically

found at the prior hearing that it had not considered gang membership in sentencing, and thus it denied the motion. Defendant timely appeals.

¶ 30 Defendant argues that the court assumed facts about defendant's background that were not supported by the evidence and imputed to him aspects of Hill's background and character. He further contends that the court improperly relied on its personal beliefs and private knowledge in sentencing defendant.

¶ 31 Defendant makes numerous subarguments under these general headings. Before considering them individually, we make some general observations. The State argues that all of defendant's arguments are forfeited except the two he actually raised in his motion to reconsider the sentence: that the court improperly found that defendant was a gang member and the court expressed a "special disdain" for burglary offenses. However, we can consider an argument not properly preserved for review if plain error occurred. Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967); *People v. Harvey*, 211 Ill. 2d 368, 386 (2004).

¶ 32 The plain-error doctrine allows us to consider an unpreserved error that was clear or obvious when (1) the evidence was so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) that error was so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). In *People v. Abdelhadi*, 2012 IL App (2d) 111053, ¶ 7, we found the second scenario potentially present, because when a trial court considers erroneous aggravating factors in sentencing, a defendant's "fundamental right to liberty" is unjustly affected, which is seen as a serious error. (Internal quotation marks omitted.) *Id.* (quoting *People v. James*, 255 Ill. App. 3d 516, 531 (1993)). For plain error to exist, however, we must first find that an error actually

occurred. *Id.* Therefore, although defendant arguably forfeited several issues by not raising them at sentencing or in his motion to reconsider, we will review them for plain error.

¶ 33 Although defendant claims that the trial court conflated details from his and Hill's backgrounds, he quotes extensively from comments the court directed to Hill *after* sentencing defendant. More generally, defendant quotes various comments by the trial court, but cites nothing indicating that the court actually considered them as aggravating factors. In one instance, the court specifically denied that it enhanced defendant's sentence based on his gang affiliation. In another, defendant cites evidence that Hill's counsel argued was mitigating. Moreover, in most instances defendant points to no specific evidence showing that the court's statements actually affected defendant's sentence. Many of the quoted remarks appear to be general observations that had no effect on the sentence.

¶ 34 A trial court is granted great deference in sentencing a defendant, and we may not overturn a sentence unless the trial court abused its discretion. *People v. Walker*, 2012 IL App (1st) 083655, ¶ 30. However, a defendant is entitled to a new sentencing hearing if the court relied on an improper factor. *Id.* Even if the court considered an improper factor, however, resentencing is necessary only if the consideration resulted in a greater sentence. *Id.* In deciding whether a sentence is improper, we do not focus on isolated statements, but instead consider the entire record. *Id.* We presume that a sentence falling within the statutory range for an offense is proper. *Id.* Personal comments or observations " 'are generally of no consequence where the record shows the court otherwise considered proper sentencing factors.' " *Id.* ¶ 33 (quoting *People v. Thurmond*, 317 Ill. App. 3d 1133, 1142 (2000)).

¶ 35 Defendant contends that the court found that he was a gang member when the record contains no evidence of this.[1] However, when defendant raised the issue in his motion to reconsider, the court stated that defendant's gang involvement "was not the basis of a specific enhancement of the sentence." The court said that any mention of defendant's gang involvement was merely a general commentary on the nature of the offense. Defendant argues that it is "inconceivable" that the court could have viewed defendant's gang involvement "as anything but an aggravating factor," but offers no reasoned argument why this is so.

¶ 36 In *People v. Whitney*, 297 Ill. App. 3d 965 (1998), on which defendant relies, the trial court expressly stated during sentencing that it was considering a prior conviction that turned out to be nonexistent. *Id.* at 969. Thus, the reviewing court was skeptical of the court's later and somewhat ambiguous statement that it did not consider the conviction. *Id.* at 969-70. In *United States v. Tucker*, 404 U.S. 443, 444 n.1, 447 (1972), the district court specifically requested testimony about the defendant's prior convictions (which were later found to be unconstitutional). Here, the court never explicitly stated that it was relying on defendant's gang involvement as an aggravating factor.

¶ 37 In any event, the record is replete with evidence that defendant was "involved" with the 057 Gangster Disciples. Defendant admitted to the presentence investigator that he fell in with the "wrong crowd." Bailey testified that the railyard burglaries were the work of the 057 Gangster Disciples and there was no evidence that anyone else had committed crimes there.

[1] The court found that defendant was "gang involved." We note that one can be involved with a gang without being a member. See *People v. Perez*, 189 Ill. 2d 254, 260 (2000); *People v. Cavazos*, 2015 IL App (2d) 120444, ¶ 51.

When Bailey responded to the scene, he encountered someone he recognized as a member of the gang. Defendant ran from the scene with Hill, who admitted to having been a member of the gang (although he claimed to have quit). Thus, the court's finding that defendant was involved with the gang was supported by the evidence.[2]

¶ 38 Defendant also complains that the court improperly found that he came from a "chaotic" background, a finding more appropriate to Hill. During sentencing, as to both defendants, the court remarked that "It's just startling, the level of chaos that you were brought into, you were brought up in and you continue to life [*sic*] in. It's a lifestyle that is born of frustration, anger, poverty, lack of education, early abuse." The court added that they continued to live in a chaotic environment in a community "ravaged by gangs and by violence." The court then continued in this vein for some time. Defendant contends that these comments were inappropriate for him as he was raised in a supportive, two-parent family and his father was steadily employed.

¶ 39 As with the previous argument, defendant points to nothing showing that the court considered defendant's "chaotic" circumstances as an aggravating factor. Immediately prior to sentencing defendant, the court mentioned only the proper factor of his prior convictions. Moreover, the evidence in question was called to the court's attention by Hill's attorney, who argued that it was mitigating. Indeed, at the conclusion of its remarks in this vein, the court stated, "It's really quite sad, depressing that you folks, both of you, live in such a sad circumstance, but I can't do anything about that." That the court found defendant's circumstances sad and depressing does not indicate that the court found them to be aggravating

[2] Although much discussed by the parties, defendant's arrest for "gang contact" is of little weight here, given the lack of specifics regarding the circumstances of the arrest and the fact that the charge was dropped the following day.

factors. In his reply brief, defendant speculates that a court "may" find that evidence intended to be mitigating is, in fact, aggravating, but, as noted, there is no evidence that the court did so here.

¶ 40 In any event, the court's description of defendant's life as "chaotic" finds support in the evidence. Defendant's father was arrested several times for misdemeanors. His mother was arrested for domestic violence. Defendant was wounded in a drive-by shooting, and a half-brother was shot to death. Defendant dropped out of school in the tenth grade for no apparent reason. He has a juvenile adjudication of burglary and an adult conviction of burglary. He was on parole for a weapons offense when he committed the instant offense, and he was sentenced separately for the underlying railroad burglary. He began using marijuana daily at the age of 12 or 13. He later used cough syrup, ecstasy, alcohol, and cocaine regularly. Although he remained sober for awhile, he relapsed and was using drugs and alcohol while on parole. Defendant had been with his girlfriend since the age of 14 or 15 but she was pregnant by another man, while defendant fathered a child with another woman. While we do not hold defendant's personal or family circumstances against him (and there is no evidence the trial court did either), we point out only that the court's description of defendant's circumstances as "chaotic" is supported by the record.

¶ 41 Defendant complains of the prosecutor's comment that both defendants "never worked" whereas defendant self-reported that he had worked for a temporary employment agency for approximately five months before being arrested. Defendant could not remember the name of the agency for which he worked, so the information could not be verified. Assuming its truth, whether working for a temporary agency constitutes full-time employment is debatable as a matter of semantics. The bigger point is that defendant, who dropped out of school in the tenth

grade and was 23 years old at the time of sentencing, had worked for, at most, five months of that time.

¶ 42 Defendant similarly argues that the court erroneously found that defendant and Hill shared the "same lifestyle," in which they spent their time "riding around smoking marijuana, popping pills," and engaging in a "gang lifestyle." The quoted phrases, which defendant also quotes in his brief, are from the prosecutor's argument concerning Hill.[3] Defendant assumes that, because the prosecutor argued that defendant and Hill shared the same lifestyle, the court must have so found. In any event, as noted, defendant worked for at most five months of his life and admitted consuming marijuana and other drugs regularly except for a brief, unspecified period.

¶ 43 *People v. Ross*, 303 Ill. App. 3d 966 (1999), which defendant cites, is distinguishable. There, the trial court stated during the sentencing hearing that the offense was motivated by the defendants' and the victim's membership in rival gangs, whereas the evidence showed that they fought each other despite being members of the same gang. The reviewing court reversed the conviction on other grounds, but held that the court's mistaken finding would have resulted in a new sentencing hearing anyway. *Id.* at 985. Here, the court's statement that defendant was involved with a gang was supported by the evidence.

¶ 44 In general, most of the court's comments about which defendant complains were in the nature of personal comments or observations, which are proper as long as the sentence was based on proper factors. *Walker*, 2012 IL App (1st) 083655, ¶ 33 (personal comments or observations "are generally of no consequence where the record shows the court otherwise considered proper

[3] Because Hill's PSI is not in the record, we cannot ascertain the accuracy of these comments as they pertain to Hill.

sentencing factors"). The only factor the court mentioned as it imposed the sentence was defendant's criminal record, which, of course, is proper. See 730 ILCS 5/5-5-3.2(a)(3) (West 2016).

¶ 45 Defendant's second principal contention is that the court relied on its personal beliefs and private knowledge in sentencing defendant. He argues that the court's decision "was impermissibly influenced by its disdain for what it erroneously perceived to be [defendant]'s lifestyle, as well as by its distaste for thieves in general." He further contends that the court relied on its personal knowledge of facts outside the record in citing a statistical link between poverty and lack of education.

¶ 46 Defendant contends that the trial court expressed particular disdain for offenders who commit crimes involving theft, and especially for those offenders who are also undereducated and unemployed, living chaotic lifestyles. We disagree.

¶ 47 In fashioning an appropriate sentence, a court must make a reasoned judgment based upon factors such as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Streit*, 142 Ill. 2d 13, 19 (1991). To do so meaningfully, the court must necessarily comment on aspects of a defendant's life, some of which will likely be viewed negatively. That is what the court here did. Merely because it commented negatively on some of defendant's choices in life does not mean that it demonstrated a "special disdain" for people who make such choices.

¶ 48 Defendant complains that the court said, "You got to [go to] school. You got to graduate high school. You got to get a job." The court commented that people who fail to do so "become leeches on society."

¶ 49 These comments, which reflected on defendant's character and ultimately his rehabilitative potential, were all based on the evidence. Defendant dropped out of school. With the possible exception of five months immediately prior to his arrest in this case, he had never held a job. He had prior burglary convictions. These remarks appear to be more in the nature of general comments or fatherly advice but, to the extent they influenced the sentence, they were proper. Defendant fails to explain why, in light of the court's mandate to fashion an appropriate sentence based on defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age (*id.*), these considerations were improper.

¶ 50 Defendant complains that the court labeled defendant's conduct "shameful" and "disgusting." Attempting to avoid arrest for another crime, defendant and Hill broke into Eggert's home. Defendant fails to explain what part of this conduct was not shameful and disgusting. The legislature made burglary a crime based on its judgment that society finds it unacceptable. By echoing this societal judgment, the court was not singling out defendant for special disdain.

¶ 51 Defendant cites *People v. Henry*, 254 Ill. App. 3d 899 (1993). There, the defendant received a near-maximum sentence for armed robbery although neither victim was seriously harmed and the stolen money was recovered. The court stated that it gave the defendant a lengthy sentence because it found the crime " 'disgusting.' " *Id.* at 904. The opinion does not reveal much else about the circumstances of the crime or the defendant's background. Thus, the defendant received a lengthy sentence based solely upon the court's idiosyncratic finding that the crime was " 'disgusting.' " *Id.* at 905.

¶ 52 Far more severe condemnations of defendants' conduct have been upheld where based upon the evidence. In *People v. Calva*, 256 Ill. App. 3d 865 (1993), for example, the trial court's

description of the defendant's crime as " 'hateful, odious, wicked, infamous, [and] gravely reprehensible' " (*id.* at 869) merely expressed the judge's "legitimate disdain" for the crime. *Id.* at 880.

¶ 53 This is not a case in which the court said that the crime in question was worse than murder (see *People v. Zemke*, 159 Ill. App. 3d 624, 625-26 (1987)), or followed a personal policy of denying probation for certain offenses (see *People v. Bolyard*, 61 Ill. 2d 583, 585 (1975)). The court's remarks did no more than express its legitimate disdain for defendant's conduct.

¶ 54 Finally, defendant contends that the court considered its private knowledge in sentencing him. He complains that the court referred to statistics allegedly showing that "the number one predictor of future poverty *** is lack of a high school diploma." Contrary to defendant's argument, it is a matter of common knowledge that a lack of a basic education adversely affects one's future earning potential. See, *e.g.*, Bureau of Labor Statistics, U.S. Department of Labor, *The Economics Daily*, Unemployment rate 2.1 percent for college grads, 4.3 percent for high school grads in April 2018 on the Internet at https://www.bls.gov/opub/ted/2018/unemployment-rate-2-1-percent-for-college-grads-4-3-percent-for-high-school-grads-in-april-2018.htm (last visited June 17, 2019) [https://perma.cc/D3MC-WBSD] (as of April 2018, unemployment rate was 5.9% for those without a high school diploma compared to 4.3% for those who completed high school and 2.1% for those with a bachelor's degree); see generally *Vulcan Materials Co. v. Bee Construction*, 96 Ill. 2d 159, 166 (1983) (court may take judicial notice of facts that are capable of immediate and accurate demonstration by resort to easily accessible sources of indisputable accuracy).

¶ 55 In the cases defendant cites, *People v. Rivers*, 410 Ill. 410 (1951), *People v. Dameron*, 196 Ill. 2d 156 (2001), and *People v. Pace*, 2015 IL App (1st) 110415, the sentencing courts'

reliance on textbooks and personal experiences was far more extensive than here, where the court merely referenced a commonly understood link between lack of education and poverty.

¶ 56 Ultimately, we note that, despite the nature of the offense and defendant's criminal history, his 8-year sentence was below the midpoint of the 4-to-15-year range for a Class 1 felony. See 720 ILCS 5/19-3(b) (West 2016); 730 ILCS 5/5-4.5-30(a) (West 2016). The sentence was just three years longer than his attorney requested and five years below what the prosecutor recommended. Defendant concedes in his reply brief that the sentence was justified by legitimate aggravating factors. Contrary to defendant's argument, nothing in the sentence itself suggests that it was based on improper considerations.

¶ 57 The judgment of the circuit court of Du Page 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).

¶ 58 Affirmed.