2019 IL App (3d) 170364-U

Order filed June 3, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Rock Island County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal Nos. 3-17-0364 and 3-17-0366
v.	)	Circuit Nos. 16-CF-719 and 16-CF-841
	)	
ALEXANDER L. PAYTON,	)	Honorable
	)	Norma Kauzlarich,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Carter and Wright concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Defendant was proven guilty beyond a reasonable doubt. (2) The court improperly sentenced defendant to an extended term.

¶ 2 In two, separate trials defendant, Alexander L. Payton, was convicted of attempted robbery, aggravated battery, and unlawful delivery of a controlled substance. We allowed defendant's motion to consolidate the appeals. He, thus, appeals his bench trial convictions for

attempted robbery and aggravated battery, alleging (1) he was not proven guilty beyond a reasonable doubt, (2) the extended-term sentence for aggravated battery was not statutorily authorized, and (3) his sentence was based on an improper factor. Moreover, defendant appeals his jury trial conviction for unlawful delivery of a controlled substance, arguing that the circuit court erred in failing to hold a preliminary *Krankel* inquiry. We affirm in part, vacate in part, and remand with directions.

¶ 3 I. BACKGROUND

¶ 4 A. Attempted Robbery and Aggravated Battery

¶ 5 On August 26, 2016, defendant was charged by information with attempted robbery of a person 60 years of age or older (720 ILCS 5/18-1(a), 8-4(a) (West 2016)) and aggravated battery of a person 60 years of age or older (*id.* § 12-3.05(d)(1)).

¶ 6 The case proceeded to a bench trial on March 27, 2017. Joseph Henson testified that he was 71 years old. On August 19, 2016, he was playing video slot machines at Video Gaming and Spirits at the QC Mart in Rock Island. While getting ready to leave around 5 p.m., he cashed out on the machine and received a ticket. He then took the ticket over to another machine that takes the tickets and dispenses money. While Henson was retrieving his money, he said,

> "I noticed a person looking in the window at—kind of bending down and looking up. I think a sign was there so the person had to bend down to look in, but I didn't think anything of it. I just thought it was a person that was curious how much I was cashing out."

Once Henson had the money, he turned to leave. At that point, the man who had looked through the window "jumped [Henson] from behind." He put his arm over Henson's left shoulder and around his neck. Henson believed the man was reaching for the money in his right hand. Henson

yelled for help and then "started to tussle with him." Both men fell down and knocked over some chairs. While they were on the ground, the man got up and ran away. He was not able to take Henson's money. From the incident, Henson had a cut on his right arm, which resulted in a scar. His neck was also hurt and still bothered him at the time of trial. The incident was recorded, and Henson viewed the video recording and stated that it was a fair and accurate depiction of the incident. The video recording was entered into evidence. The police arrived and asked Henson if he could identify the man who attempted to rob him. Henson stated that he was unable to do so because the man came from behind him, and he never saw his face. He thought the person "was a male black around 50 years old."

¶ 7 Austin Frankenreider testified that he was a police officer with the Rock Island Police Department. He was dispatched to the scene after the incident. While speaking with Henson, he noticed Henson was breathing heavily and had a gash on his arm approximately three inches long and one inch wide that was bleeding. Frankenreider said at least one man had witnessed the incident. He collected a beer can (Milwaukee's Best) and a cigarette as evidence. Frankenreider touched the beer can with the back of his hand and noted it was cold to the touch and was still approximately half full. A witness to the incident told Frankenreider that the man who attacked Henson had been drinking out of the beer can. He also photographed the beer can on the table on which it was sitting. He packaged the can in a brown paper bag and placed it in an evidence locker where it was secured and locked. Frankenreider viewed the can at trial and stated that it was in substantially the same condition as when he placed it into evidence.

¶ 8 Fay Edward Burleson III testified that he worked at the QC Mart on the night in question. He stated,

> "I remember going towards the back to grab my cigarettes and turning to see—turning towards the—back towards the front and seeing on this—the video monitor that there was a fight that had just started, was in progress. So I ran to the front and tried to separate them ***."

Burleson stated that there was a window through which people would buy beer or cigarettes and the merchandise and money would be exchanged through the window. He yelled at them through the window. He said,

> "[W]hen I ran out front, they were already—pretty much the one guy had the other guy in a headlock, and they were going back and forth trying to—the one was trying to stay upright. The other one looked like he was trying to snatch something out of the other gentleman's hand."

Burleson described the men, stating, "One was an older white male, had grayish hair. The other one was a slightly younger black male, a little bit heavyset, wearing large baggy, I believed it was, a blue T-shirt and short hair." The second man was the one trying to take the money. Burleson had some trouble with his memory since he hit his head about a year previous. Burleson said,

> "I remember selling [the suspect] at least one beer. I think it was a Milwaukee's Best. And I think the Timeless Time that he was smoking was one that I sold a pack to either him or another customer shortly before the incident happened. I think it was to another customer, and that customer gave him a smoke."

No customers had access to the beer before purchasing it. That day, Burleson told the police that he could identify the person in a photographic lineup, but he was not shown one until March 13,

2017, approximately seven months after the incident. He was unable to select a suspect, but told the officer which photograph he felt fit the general description he remembered the best. Burleson stated that the suspect had been in the store before, once or twice a week, but he did not have any conversations with him. Burleson stated that he had not paid any particular attention to the man on the day of the incident or any other occasion, and any contact was through the window.

¶ 9 Greg Whitcomb testified that he was a detective for the Rock Island Police Department and investigated the case. He stated that defendant was ultimately identified as the perpetrator through fingerprints. Whitcomb confirmed the identification by "pull[ing] a past photo of the Defendant and compar[ing] that photo and his general description to the subject that was depicted on the video surveillance footage from the QC Mart." Whitcomb was present when defendant was fingerprinted. He conducted the photographic lineup with Burleson on March 13, 2017. He showed Burleson six photographs, all with similar physical characteristics, including defendant's photograph. Whitcomb stated that Burleson did not select any photograph, but commented on the pictures as he viewed them. On defendant's photograph, Burleson stated that it was the right build, but the suspect had more facial hair.

¶ 10 Garrett Alderson testified that he was a criminalist with the Rock Island Police Department and was responsible for "latent print recovery and identification comparisons, crime scene documentation, evidence collection and then cannabis analysis." He had been the criminalist in Rock Island for four years. He had a bachelor's degree in biology, a master's degree in forensic science, and interned in death investigations. He had over 100 hours of fingerprint comparison courses, 40 hours in photography, and other crime scene training courses. He had compared fingerprints thousands of times and had been qualified as an expert in latent

fingerprint comparisons seven or eight times in federal court and in Rock Island County. Alderson was deemed an expert in the field of fingerprint analysis. Defendant did not object.

¶ 11 Alderson testified that each individual has their own unique set of fingerprints and that fingerprints "are used *** to identify people based on the structure points in the print and overall pattern, their level of detail such as the pores, ridge shape and ridge structure as well." He stated that he uses more than just the points when using a print for identification, and stated that he did "not know of any specific analyst that *** uses only points for their identifications." Individuals leave fingerprints by holding or touching an object, but Alderson stated that it is possible to touch something and not leave a print, based on the way that it is handled and the surface of the object. He was asked to process the beer can for fingerprints. It was sealed in an evidence bag when he received it, and he stated that, at trial, it was in substantially the same condition as when he received it.

¶ 12 Alderson discussed the methodology he used when recovering and matching the fingerprints. We will provide a cursory overview of his testimony on this point, here, and will expound on his methodology in greater detail in the analysis. See *infra* ¶¶ 31-34. Alderson used the "Super Glue or the cyanoacrylate method" to process the can for latent prints, stating,

> "[T]he can is put into a chamber that's airtight. And then you heat up the Super Glue, and as those fumes then migrate through, around the chamber, the Super Glue fumes will adhere to any water, sweat that would be left behind in the print. So *** the Super Glue would attach to the moisture or the water. And then any of those ridges would then turn out to be white because the Super Glue is a white fume."

Using this method, he was able to recover two latent prints. He noted that "[t]he smooth, untextured metal is fantastic to recover latent prints *** off of." Alderson then took multiple photographs of the prints. The State entered into evidence the photographs that Alderson took.

¶ 13 After taking the photographs, Alderson "searched [the fingerprints] through [his] local fingerprint database." The search did not yield a result. He then had Officer Tim Doty search one of the fingerprints through the Federal Bureau of Investigations (FBI) database kept by the Bettendorf Police Department, which resulted in 20 potential matches. He compared the prints and "one of the individuals was confirmed to have made [the] fingerprint." The fingerprint was determined to be defendant's.

¶ 14 Alderson took another ink impression of defendant's fingers before trial and again confirmed the identification. Both identifications were confirmed by Doty. It was Alderson's expert opinion, within a reasonable degree of scientific certainty, that the latent prints could not have come from any other individual.

¶ 15 Officer Doty testified that he is the head evidence manager for the Bettendorf Police Department and does fingerprint identification. He started latent print examinations in 2012 and had approximately 280 hours worth of classroom instruction on fingerprint comparison. He has compared latent prints thousands of times, doing hundreds a year. He had been qualified as an expert in latent print comparison four times. He was declared an expert in latent fingerprint analysis. Doty stated,

> "[W]hen I go ahead and verify a print, basically what I'm trying to do is look at the print and look at the known and see if Mr. Alderson made a correct identification or not. So, in essence, what I'm trying to do is, I'm trying to prove

him wrong, and if I can't prove him wrong, then he made the correct identification."

When looking at the prints, he stated,

> "Basically, I'm looking at the totality of the print. I'm looking for overall ridge flow. I'm looking for basically the ridge events that happen in there. Then if there's anything else such as, like, pores or how the ridges go, sometimes there's immature ridges that show up from time to time. I am looking for everything basically in that print to see if there's anything similar or dissimilar in the case—in the prints."

If he found something dissimilar, he

> "would question it up and see if there was—would be a logical explanation for it *** like *** with incipient ridges, they're basically immature ridges. Sometimes they show up when somebody touches something. Sometimes they do not. If there's been any movement in the fingerprint itself, that could cause some distortion *** and also even the fact if somebody else, like, grabs this water bottle here after [he had] grabbed it, that could cause some distortion as well ***."

He did not see any dissimilarities or distortions either time he compared the prints. When looking at the prints, he spent approximately 10 to 15 minutes per print.

¶ 16 Doty stated that Alderson gave him the photographs of the latent prints, and he conducted a search through the FBI database. He stated that the FBI database would give the top 20 potential matches and rank them by degree of similarity based on details Doty pointed out when inputting it in the system. The system never provided more or fewer than 20 matches. Doty said sometimes the fingerprint matched the first person on the list, although he has had it match as

low as person 12 on the list. He further stated that sometimes the fingerprint does not match any of the 20 people. Once he had those 20 matches, he did not examine them to make an identification, but instead gave the 20 matches to Alderson.

¶ 17 The defense did not present any evidence. The court took the matter under advisement. The court subsequently found defendant guilty, stating:

> "I spent some time reviewing this QC Mart video ***.
>
> I paid very close attention—and I actually must have watched this about six times—to the beer can because, as [defense counsel] stated, the bottom line was whether or not the Court would believe—it came down to the beer can and the fingerprints on the beer can.
>
> And as I watched and re-watched the video, the Court's going to note for the record that in the video the subject who sat watching the video-players, specifically behind Mr. Henson, was behind him for quite some time. That person buys a beer, returns to his stool, and I rewound it so I could see it again, and he takes his T-shirt and he takes the can and he wipes it like this and he wipes the edge really well. *** I found that kind of interesting because he wiped it down.
>
> Then he sat, and I counted how many sips he took from the beer and if I recall correctly it was a total of four drinks. I kept watching that beer can. I watched the person walk out of there, stand right outside the door, and then the altercation happened where Mr. Henson was grabbed from behind and then—which is the same subject that was sitting behind Mr. Henson throughout this time and the same person who was drinking that particular beer that had taken the

precaution of wiping the can down, and then after the altercation that person never came back.

I continued watching the video because I was interested to see what happened with that beer can, and it sat there. The only person I saw that touched it was Mr. Henson, and he went like this to move it over. ***

So, [defense counsel], your [fingerprint case you presented] was very interesting. I liked reading it, but there the State presented evidence that was far more detailed in the way that both criminalists did their fingerprinting. And for me to buy your argument then every single case under the sun that any fingerprints are found now, [defense counsel], I would have to throw out and not believe that the fingerprints were accurate.

They followed different details. They, in fact, *** Doty, I think his name was—was just trained in 2012, which is six years later than [the case you presented]. So they were his fingerprints on that can, and there's no other explanation because the person wiped down the can. Wiped it down. And I thought, well, that's interesting.

He took four sips, which is consistent with one of the officer's testimony that it was still kind of full and just cold to touch. Nobody could remember if there was condensation on it other than the managers from the video gaming who said that, yeah, he had condensation on it. And I couldn't figure out why in the pictures there wasn't any condensation until I noticed [defendant] wiping that down."

Defendant filed a motion for a new trial, which was denied.

¶ 18 B. Delivery of a Controlled Substance

¶ 19 After a separate jury trial, defendant was found guilty of delivery of a controlled substance within 1000 feet of a school (720 ILCS 570/407(b)(2) (West 2016)). The evidence established that Officer Phillip Ledbetter had been conducting undercover narcotics buys for the Rock Island Police Department. In May 2016, he "received some information about a gentleman selling narcotics in Rock Island and was provided a phone number, at which time [he] was told that if [he] would call such a phone number, introduce [himself], [he] would be able to purchase crack cocaine." He checked the number in the police database, and it matched defendant's phone number. He called the number and spoke to someone named "Alex." Ledbetter told "Alex" he was calling in regard to purchasing $100 of crack cocaine. "Alex" told him to go to 742 15th Street and pull into the alley behind the house. Ledbetter contacted two surveillance officers and gave them a photograph of defendant, explaining to them that defendant owned the phone number.

¶ 20 Ledbetter arrived in the alley, and a man walked to his driver's side door. Ledbetter identified the man as defendant. Defendant introduced himself as Alex and stated that he was waiting for a guy to bring him the crack cocaine. Defendant made a phone call and told Ledbetter he had to meet the guy. Ledbetter gave him the $100 in prerecorded money. Approximately five minutes later, defendant returned, got into Ledbetter's passenger side, and handed him a tissue full of crack cocaine. Defendant was not arrested that day. Two other officers witnessed the operation and testified that defendant was the man who sold Ledbetter the drugs. Another officer testified that he measured the distance between where the drug deal occurred and the Rock Island Academy, which was operating as a school on that date. The drug deal happened 656 feet from the school.

¶ 21 After trial, defendant wrote a letter to the court that stated that he "was not tried fa[i]rly." Defendant alleged that he was out of town on the day the incident occurred. He further stated, "I ask of you for a verdict reversal because the State don't have no hard evidence to say I did anything and my defen[s]e was we[a]k." The circuit court never mentioned defendant's letter.

¶ 22 C. Sentencing

¶ 23 A joint sentencing hearing was held on both cases. The court sentenced defendant to 10 years' imprisonment on each of the three convictions, to be served concurrently. In doing so, the court stated, "I don't like violence against children or elderly people. I'm an elderly person. They have absolutely no defense. The two groups that people pick on are the ones that bug me the most."

¶ 24 II. ANALYSIS

¶ 25 On appeal, defendant argues (1) he was not proven guilty beyond a reasonable doubt of aggravated battery and attempted robbery where the experts' fingerprint analysis was deficient, (2) his 10-year extended-term sentence for aggravated battery was not statutorily authorized, (3) his sentences were based on an improper aggravating factor, and (4) the unlawful delivery of a controlled substance case should be remanded for a preliminary *Krankel* inquiry. We find the evidence was sufficient to convict defendant where the expert fingerprint testimony provided a sufficiently detailed account of the methodology used and its general acceptance in the community. We accept the State's concession that defendant was improperly sentenced to an extended term for aggravated battery. We, therefore, remand for a new sentencing hearing on all three of defendant's convictions and do not reach the question of whether defendant's sentences were based on an improper factor. Moreover, as the record does not show whether the court

actually received and considered defendant's letter, we direct the court on remand to determine whether any *Krankel* proceedings are necessary.

¶ 26 "When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant." *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, " 'the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "This means the reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). "A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." *Collins*, 106 Ill. 2d at 261. We give great deference to the trier of fact. See, *e.g.*, *People v. Saxon*, 374 Ill. App. 3d 409, 416-17 (2007).

> "[I]n a bench trial, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence. [Citations.] A reviewing court will not reverse a conviction simply because the evidence is contradictory [citation] or because the defendant claims that a witness was not credible." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 27 In order for defendant to be convicted of aggravated battery, here, the State had to prove defendant (1) acted knowingly and without legal justification, (2) caused bodily harm or made physical contact of an insulting or provoking nature to Henson, and (3) knew Henson to be 60 years of age or older. 720 ILCS 5/12-3.05(d)(1), 12-3(a) (West 2016). Bodily harm is defined in

this context as "some sort of physical pain or damage to the body, like lacerations, bruises, or abrasions, whether temporary or permanent." *People v. Cisneros*, 2013 IL App (3d) 110851, ¶ 14. To be convicted of attempted robbery, the State had to prove defendant (1) intended to take Henson's property, (2) did an act that constituted a substantial step towards taking the property, and (3) used force or threatened the use of force. 720 ILCS 5/18-1(a), 8-4(a) (West 2016).

¶ 28 Defendant solely argues that the evidence was insufficient to prove that he was the perpetrator of the aggravated battery and attempted robbery. Specifically, defendant contends that the fingerprint evidence identifying him as the perpetrator should have been given little weight because Alderson's expert analysis was deficient. Defendant does not challenge the admissibility of Alderson's expert testimony, but argues only that it should not have been given much weight.

¶ 29 A conviction may properly be based on fingerprint evidence alone. *People v. Rhodes*, 85 Ill. 2d 241, 249 (1981). However,

> "[i]n order to sustain a conviction solely on fingerprint evidence, fingerprints corresponding to the fingerprints of the defendant must have been found in the immediate vicinity of the crime under such circumstances as to establish beyond a reasonable doubt that the fingerprints were impressed at the time the crime was committed." *Id.*

¶ 30 Defendant does not dispute that the fingerprints were "found in the immediate vicinity of the crime under such circumstances as to establish beyond a reasonable doubt that the fingerprints were impressed at the time the crime was committed." *Id.* The evidence clearly established that Burleson sold a beer to a man and no one else had access to that beer. A witness told Frankenreider that the man who attacked Henson had been drinking the beer. Moreover, the

court noted that the videotape showed the man who attacked Henson wipe off the beer can, drink it, set it down, and thereafter no one else touched it. Right after the incident, Frankenreider packaged the can and placed it in the evidence locker.

¶ 31 Moreover, Alderson was qualified as an expert in fingerprint analysis. He had extensive training and had compared thousands of fingerprints. Defendant did not object to his qualifications as an expert. Alderson discussed his methodology in depth. He stated that he used the Super Glue method to process the can for latent prints and found two usable prints. He photographed the prints instead of lifting them off the can because "the loss of quality potentially by doing a black powder lift is high." When Alderson did not have a fingerprint match after searching through his local database, he asked Doty to conduct a search through the FBI database. The FBI database always returns 20 matches and ranks them by degree of similarity. To compare the recovered latent prints to the matches from the FBI database, Alderson used the ACE-V method, which stood for assess, compare, evaluate, and verify and was "a scientifically accepted method for comparing fingerprints." Alderson said,

> "I first take the photograph [of the recovered latent prints], and what am I looking at? Is it a palm? Is it a fingerprint? Is it a second or third joint? Then I will examine the ridge flow, the ridge structure, overall pattern and then I will go into the points or the *** second level. I will then compare the knowns to the latent and see if the quantity and clarity of the information in the latent will match any of the known fingerprints."

¶ 32 After comparing the latent prints, Alderson found that the prints matched one set of prints on the FBI database. He then had Doty send a hard copy of the 10-fingerprint card for those fingerprints and again compared the known prints with the latent prints. He found that the latent

prints matched defendant's left middle finger and left index finger. Before trial, Alderson personally took ink impressions of defendant's fingerprints and again confirmed that the latent fingerprints were defendants. Alderson stated, "[T]he quality of the information, the clarity of the information was sufficient enough to make the conclusion that only [defendant] could have made [the] fingerprints." It was his expert opinion that the prints could not have come from any other individual. Based on this conclusion, he did not need to compare the prints to anyone else.

¶ 33 On cross-examination, Alderson further explained the difference between level-one, level-two, and level-three details, stating:

> "Level-one is just kind of an overall pattern and ridge flow, so a whirl, a loop, an arch, those are considered level-one-type details. Level-two are your *** bifurcations, your ending ridges, your dots, your islands, enclosures, all the little minutia in the print that make it unique to you."

Level-three details are "the very fine details like pores." He stated that he did not use only points for identification, but instead looked at the totality of the fingerprints. Alderson found at least 17 level-two details and stated that some laboratories require a minimum of 7 to make an identification. Doty was also qualified as an expert in fingerprint analysis and he confirmed that the fingerprints were defendant's. He did not see any dissimilarities between the prints.

¶ 34 Based on Alderson and Doty's expert testimony, we find that the evidence was sufficient for the court to find that the latent fingerprints discovered at the scene belonged to defendant. While defendant notes that Alderson did not specifically show the court any of the points where the fingerprints matched or "demonstrate the ability to conclude that two prints did not match," he does not point to any case law that specifically requires an expert to do so. Any challenges to Alderson's method were for cross-examination or the presentation of contrary evidence. See

People v. Luna, 2013 IL App (1st) 072253, ¶ 71. The court heard the direct testimony and cross-examination of both Alderson and Doty. It was up to the trier of fact to weigh the evidence, and we are discouraged from reweighing. *Siguenza-Brito*, 235 Ill. 2d at 228.We find no error in the amount of weight given to Alderson and Doty's testimony.

¶ 35 Next, defendant contends that he was improperly sentenced to an extended-term sentence of 10 years' imprisonment for aggravated battery. The State confesses error. After a review of the record, we accept the State's concession. Aggravated battery is a Class 3 felony, which only carries a sentence of two to five years. 720 ILCS 5/12-3.05(d)(1) (West 2016); 730 ILCS 5/5-4.5-40(a) (West 2016). No aggravating factor was present so as to authorize extended-term sentencing. See 730 ILCS 5/5-8-2(a) (West 2016). Therefore, we vacate defendant's sentences and remand the case for the court to conduct a new sentencing hearing on all three convictions. Because we remand for a new sentencing hearing, we need not reach defendant's argument that the court considered a factor inherent in the offense. However, because age is an element of the charged crime, we caution the court not to consider the age of the victim when resentencing defendant on remand.

¶ 36 Lastly, defendant contends that the court improperly failed to conduct a *Krankel* inquiry when defendant raised an ineffective assistance of counsel claim in his posttrial letter to the court. See *People v. Ayres*, 2017 IL 120071, ¶ 11. In the letter, defendant stated that he was not "fa[i]rly tried" and his "defen[s]e was we[a]k." The record does not show that the court saw or took the opportunity to address defendant's letter. Therefore, on remand, we direct the court to address defendant's letter and determine whether any *Krankel* proceedings are necessary.

¶ 37 In sum, we affirm defendant's convictions for attempted robbery, aggravated battery, and unlawful delivery of a controlled substance within 1000 feet of a school. We vacate defendant's

sentences and remand for a new sentencing hearing on all convictions. When sentencing defendant, we direct the court to sentence defendant within the statutorily proscribed guidelines and caution the court not to consider a factor inherent in the offense, such as the age of the victim. Moreover, we direct the court to address defendant's letter and determine whether any *Krankel* proceedings are necessary.

¶ 38 III. CONCLUSION

¶ 39 The judgment of the circuit court of Rock Island County is affirmed in part, vacated in part, and remanded with directions.

¶ 40 Affirmed in part, vacated in part, and remanded with directions.