2020 IL App (4th) 180325-U

NO. 4-18-0325

FILED
May 28, 2020
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Vermilion County
TERRANCE L. GARRETT,	)	No. 17CF554
Defendant-Appellant.	)	
	)	Honorable
	)	Nancy S. Fahey,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Harris and Holder White concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding (1) the State presented sufficient evidence by which the jury could find beyond a reasonable doubt defendant entered the dwelling place of another without authority, (2) the trial court conducted an adequate inquiry into defendant's *pro se* posttrial claim of ineffective assistance of counsel and did not err in concluding defendant's claim was meritless, (3) the trial court's sentencing decision did not amount to an abuse of its discretion.

¶ 2 Defendant, Terrance L. Garrett, appeals from his conviction and sentence for residential burglary. On appeal, defendant argues (1) the State failed to prove him guilty beyond a reasonable doubt, (2) the trial court failed to conduct an adequate inquiry into his *pro se* posttrial claim of ineffective assistance of counsel, and (3) the trial court's sentencing decision amounts to an abuse of its discretion. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Information

¶ 5 In August 2017, the State charged defendant by information with residential burglary (720 ILCS 5/19-3 (West 2016)) and theft (*id.* § 16-1(a)(1)). With respect to the residential burglary charge, the State alleged, on or about August 10, 2017, "defendant ***, knowingly and without authority, entered into the dwelling place of Latina Grady, located at 114 Cronkhite [Avenue], Danville, Vermilion County, Illinois, with the intent to commit a theft therein."

¶ 6 B. Jury Trial

¶ 7 In November 2017, the trial court held a jury trial. Prior to commencing the trial, the State nol-prossed the theft charge. The State also advised the court of prior plea negotiations. The State indicated its first offer was to recommend "12 years." The State indicated its last offer was to recommend four years' imprisonment in exchange for a guilty plea on the theft charge. Defendant acknowledged rejecting all offers.

¶ 8 1. *State's Case-in-Chief*

¶ 9 In its case-in-chief, the State called five witnesses: Latina Grady, Teshon Price, Troy Nipper, Bruce Stark, and Kacey Crippen. The State also presented photographs of the residence located at 114 Cronkhite Avenue in Danville, a copy of a receipt from Gold Rush Pawnbrokers in Danville, and a video recording taken from a surveillance camera at Gold Rush Pawnbrokers. The following is gleaned from the testimony and evidence presented.

¶ 10 Latina Grady has three children and two jobs. Grady works days as a school bus monitor and evenings as a home healthcare aide. Grady has worked both jobs for about two years. Grady's mother, Teshon Price, provides childcare while Grady works her day job. Grady would drop her children off with her mother around 5:30 a.m. and then pick them up around 4:30 p.m.

¶ 11 In April 2017, Grady and defendant, who Grady had known for over 13 years, were in a romantic relationship. At the time, Grady and her children lived with defendant at a residence located at 911 Koehn Drive in Danville.

¶ 12 Grady testified, on June 9, 2017, she signed a lease for a residence located at 114 Cronkhite Avenue in Danville and, at the time of signing, she was the only one present. That same day, Grady and her children moved into the Cronkhite residence, which had been "gutted" and had "brand new windows." Grady testified defendant did not move to the Cronkhite residence with her and her children because she had ended their relationship due to defendant's infidelity.

¶ 13 Grady received two keys for the Cronkhite residence. Grady testified she never gave defendant a key. Grady accepted defendant's offer to place the electric and gas account for the Cronkhite residence in his name. Grady testified she accepted defendant's offer because her poor credit prevented her from placing the account in only her name. Grady testified defendant never helped pay for any expenses related to the Cronkhite residence, such as expenses for rent, water, and electric and gas.

¶ 14 Grady testified she and defendant had discussions about getting back together in a relationship in mid-July 2017. They did not get back together because defendant was still involved with other women. Grady acknowledged defendant may have had a single outfit at her residence but asserted he did not have any other personal possessions.

¶ 15 On the morning of August 10, 2017, Grady left her residence to go to work. The doors and windows to the residence were closed and locked. Around 2 p.m., Grady's mother and her mother's boyfriend went to Grady's residence. When they arrived, Grady's mother noticed a door and two windows to the home were open. One of the windows had its screen pulled out and

a piece of rubber hanging down. Grady's mother also observed defendant, who she had known for a long time, riding a bicycle away from the residence. Grady's mother entered the residence and noticed drawers were open as if they had "been rambled through." She called her daughter.

¶ 16 Around 3:30 p.m., Troy Nipper, a police officer with the City of Danville, responded to Grady's residence, where he spoke with Grady's mother and took photographs of the residence. Grady's mother testified she told Officer Nipper about the two open windows, the open drawers, and seeing defendant riding a bike. Officer Nipper testified Grady's mother told him about an open window and seeing defendant riding a bike. Photographs which were admitted into evidence showed a window which appeared to have the screen ripped and a piece of rubber hanging down.

¶ 17 Grady returned to her residence where she observed the window to her bathroom was open and had the screen ripped and "a couple of room drawers [were] open." Grady testified the bathroom window did not have a ripped screen or rubber hanging down when she left for work that morning. Grady also testified the bathroom window was approximately five feet from the ground. Grady observed a PlayStation gaming system and some games were missing from the residence. Grady testified she used her own money to purchase the gaming system and games for her son, who had health issues that prevented him from playing outside for extended periods.

¶ 18 Grady, who photographed serial numbers of electronic items she purchased, went to a nearby pawn shop, Gold Rush Pawnbrokers in Danville. Officer Nipper met Grady at the pawn shop. Grady identified her son's PlayStation gaming system and its games at the pawn shop. Kacey Crippen, an employee of Gold Rush Pawnbrokers, testified defendant gave the PlayStation gaming system and games as collateral for a $120 loan earlier that day. Crippen identified a video recording

from a surveillance camera showing the transaction. Bruce Stark, an evidence custodian with the Danville Police Department, testified about the storage of the video recording until trial. The recording was admitted into evidence and played for the jury. Crippen also testified he entered information from defendant's driver's license into the shop's computer system, which was then printed on a receipt. A copy of the receipt which was admitted into evidence indicates defendant's listed address was on Koehn Drive.

¶ 19 Approximately an hour after leaving the pawn shop, Officer Nipper located and arrested defendant. Officer Nipper testified defendant made statements indicating he had not been at a pawn shop that day. Officer Nipper discovered $55 in cash when searching defendant incident to his arrest.

¶ 20 Officer Nipper transported defendant to the public safety building. Officer Nipper testified defendant made a statement indicating he purchased the PlayStation gaming system for Grady's son and wanted it back. Officer Nipper also testified he asked defendant for his address, to which defendant stated he had been living in a friend's car ever since Grady had "kicked him out" two weeks earlier. Defendant did not provide an address during booking.

¶ 21 Grady recalled a telephone conversation with an investigator from the public defender's office. Grady testified she told the investigator she let defendant stay at the Cronkhite residence for a couple of nights when they were talking about getting back together. Grady testified she did not allow defendant to live there for two weeks. Grady testified she was not upset about the relationship ending because it was her decision to end the relationship.

¶ 22 2. *Defendant's Case-in-Chief*

¶ 23 In his case-in-chief, defendant testified on his own behalf and called one witness,

Steven Blaine. Defendant also presented a copy of an electric and gas bill for the Cronkhite residence. The following is gleaned from the testimony and evidence presented.

¶ 24 In April 2017, defendant and Grady were in a romantic relationship and lived together at a residence located at 911 Koehn Drive in Danville. Grady's children also lived at the Koehn residence. Defendant testified they lived at the Koehn residence until they moved to a residence located at 114 Cronkhite Avenue in Danville in June 2017. Around early July 2017, defendant and Grady agreed he would be named on the electric and gas account for the Cronkite residence while he lived at the residence and they continued their relationship. They also agreed defendant would pay for the electric and gas bill. An electric and gas bill for the period of July 26 to August 13, 2017, was admitted into evidence and showed both defendant and Grady listed on the account. Defendant testified his name was listed on the bill because he was living at the Cronkhite residence at that time. Defendant testified he also received mail while living at the Cronkhite residence.

¶ 25 Defendant testified he spent a few nights at his brother's house in early August 2017 after an argument with Grady where she accused him of being unfaithful. Defendant believed the argument occurred sometime between August 3 and August 5. On August 10, defendant returned to the Cronkhite residence to get his clothes and a PlayStation video game system. Defendant testified he purchased the game system with his own money. Once at the residence, defendant entered through the back door, which he asserted they always kept unlocked. Defendant testified he did not enter the residence through the bathroom window, which was seven-and-a-half feet off the ground. Defendant believed he was entering his own home when he went into the Cronkhite residence on August 10.

¶ 26 On cross-examination, defendant acknowledged he was not listed on the lease for the Cronkhite residence. Defendant testified he had a key to the Cronkhite residence but had lost it in June 2017. Defendant acknowledged pawning the PlayStation gaming system shortly after taking it from the Cronkhite residence and having $55 on his person incident to his arrest. Defendant testified he did not tell Officer Nipper he had been living in a friend's vehicle and had not lived at the Cronkhite residence for two weeks. Defendant testified he did not make a statement suggesting he had not been at the pawn shop.

¶ 27 On direct examination, defendant acknowledged having "been convicted of [a]gggravated [b]attery to a [p]eace [o]fficer in Vermilion County case [No.] 2013[-]CF[-]204." On cross-examination, defendant further acknowledged his conviction was a felony.

¶ 28 Steven Blaine, an investigator with the public defender's office, testified he had a phone conversation with Grady on September 26, 2017. The defense asked whether Grady stated during that conversation "that once she moved to the Cronkhite address she let [defendant] move back in for about two weeks," to which Blaine answered, "That's true."

¶ 29 3. *Jury Verdict*

¶ 30 Following its deliberations, the jury found defendant guilty of residential burglary.

¶ 31 C. Motion for a New Trial

¶ 32 In December 2017, defendant filed a motion for a new trial, arguing, in part, the State failed to prove him guilty beyond a reasonable doubt.

¶ 33 D. *Pro Se* Claim of Ineffective Assistance of Counsel

¶ 34 On January 22, 2018, defendant mailed a *pro se* letter to the trial court complaining about his counsel's performance. Defendant asserted, in part, his counsel rendered ineffective

assistance by not requesting the appointment of a special prosecutor at trial where a conflict of interest resulted from the state's attorney representing him in prior criminal cases. Defendant averred he brought the matter to his counsel's attention and his counsel asserted there was no conflict because the state's attorney would not be prosecuting his case.

¶ 35 E. Motion for the Appointment of a Special Prosecutor at Sentencing

¶ 36 On January 25, 2018, defendant, through counsel, filed a motion for the appointment of a special prosecutor at sentencing. While defendant's motion is not contained in the record on appeal, the State later filed a response to the motion and defendant filed a reply to the State's response. As gleaned from the response and reply, defendant sought the appointment of a special prosecutor at sentencing because an actual conflict of interest would result from the State using evidence at sentencing from defendant's prior criminal cases where he was represented by the state's attorney. In response, the State asserted no conflict existed as it intended to only introduce at sentencing public records of defendant's convictions for enhancement purposes.

¶ 37 F. Hearings on Defendant's *Pro Se* Claim of Ineffective Assistance of Counsel and Posttrial Motions

¶ 38 In February 2018, the trial court held hearings on defendant's *pro se* claim of ineffective assistance of counsel, motion for the appointment of a special prosecutor at sentencing, and motion for a new trial.

¶ 39 The trial court first addressed defendant's *pro se* claim of ineffective assistance of counsel. The court allowed defendant an opportunity to elaborate on his claim. Defendant substantially repeated the allegations in his letter to the court. The court next allowed defendant's counsel an opportunity to respond to defendant's claim. With respect to the "conflict free issue," counsel asserted there was no need for a special prosecutor at trial as defendant's convictions were

"matters of public record." Counsel noted he filed the motion for the appointment of a special prosecutor at sentencing due to the State's posttrial disclosure of evidence from defendant's prior cases and his belief that evidence would be used against defendant at sentencing. After hearing from defendant and defendant's counsel, the court declined to appoint new counsel finding, in part, defendant's claim "lacks merit."

¶ 40 The trial court next addressed defendant's motion for the appointment of a special prosecutor at sentencing. After hearing from defendant and the State, the court denied defendant's motion, finding no actual conflict of interest where the State would only introduce public records of defendant's convictions at sentencing.

¶ 41 Last, the trial court addressed defendant's motion for a new trial. After hearing from defendant and the State, the court denied defendant's motion.

¶ 42 G. Sentencing Hearing

¶ 43 In March 2018, the trial court held a sentencing hearing. The court received a presentence investigation report (PSI). In aggravation, the State presented "a print-off from the Illinois Department of Corrections," which allegedly showed defendant having a "parole date of April 11, 2017, and *** two years mandatory supervised release [(MSR)]." We note the print-off is not contained in the record on appeal. In mitigation, the defendant testified on his own behalf and called two witnesses, his brother and the mother of defendant's son. The following is gleaned from the PSI and the evidence and testimony presented.

¶ 44 Defendant, who was 25 years old at the time of sentencing, has a history of delinquency and criminal activity. Defendant's history of delinquency involves multiple burglaries and look-alike substances as well as criminal damage to property, criminal trespass to a residence,

and theft. Defendant's history of criminal activity involves two 2010 burglaries and a 2013 aggravated battery. For the burglaries, defendant was sentenced to concurrently imposed terms of four years' imprisonment. For the aggravated battery, defendant was sentenced to eight years' imprisonment. While serving an MSR term, defendant committed the residential burglary in this case.

¶ 45 Defendant has two children, a son and a daughter, from two different mothers and was expecting another child from a third mother. Defendant's children reside with their respective mothers. Defendant testified he visited with his son approximately three to four times a week during the summer of 2017. Defendant testified he called and occasionally visited with his daughter on weekends during the summer of 2017. Defendant's brother testified defendant spent every day with his son and would video chat or talk with his daughter during the summer of 2017. The mother of defendant's son testified defendant would call their son every day and spend time with him approximately three times a week during the summer of 2017. Defendant did not, however, provide financial support for his son during that time. She also testified defendant wrote their son a couple times a month while serving a prior term of imprisonment.

¶ 46 Defendant reported being unemployed and having never held a job. He reported receiving a General Education Diploma and a mechanic certification during a prior term of imprisonment.

¶ 47 Defendant reported struggling with substance abuse and needing treatment. Defendant reported enrolling in a substance-abuse program during a prior term of imprisonment. Defendant testified he did not complete the program because he was transferred to another prison. Defendant expressed a desire to reengage in a substance abuse program.

¶ 48 Defendant testified he was diagnosed as depressed during a prior period of imprisonment. Defendant testified he still suffered with depression and desired to engage in counseling.

¶ 49 Defendant reported previously residing at the Cronkhite residence for one-and-a-half months. Defendant's brother and the mother to defendant's son testified defendant resided at the Cronkhite residence during the summer of 2017.

¶ 50 Defendant was evaluated with the Illinois Pre-Screen Instrument and found to be a high risk to re-offend. Defendant was evaluated with the Level of Service Inventory – Revised and found to need the maximum level of supervision and service.

¶ 51 Based on this information, the State recommended defendant be sentenced to 16 years' imprisonment. In support, the State highlighted the nature and circumstances of the offense—that defendant, while serving a term of MSR, broke into Grady's home during the daytime knowing she would be at work and then stole and pawned her child's PlayStation gaming system and its games. The State highlighted defendant received compensation by pawning the items he obtained from committing the crime. The State also highlighted defendant's criminal history, including his prior felony convictions and sentences of imprisonment. The State argued the recommended sentence would serve to deter others from committing a similar offense.

¶ 52 The defense recommended defendant be sentenced to six years' imprisonment. In support, the defense highlighted defendant's attempts to foster a relationship with his children and his willingness to pursue services while imprisoned. With respect to the nature and circumstances of the offense, the defense initially asserted the evidence at sentencing supported defendant's argument at trial that he resided at the Cronkhite residence. The defense further asserted any

mistaken belief should be considered in mitigation. The defense argued the offense did not involve any serious harm or risk of serious harm and was unlikely to occur again. The defense also argued a lengthier sentence would cause a substantial hardship to defendant's children.

¶ 53 In the oral pronouncement of its decision, the trial court stated it considered the nature and circumstances of the offense as well as the history, character, and condition of defendant. The court stated it found the only factor in mitigation applicable was defendant did not contemplate his criminal conduct would cause or threaten serious physical harm to another. The court noted defendant did not provide financial support for his children and it was his own actions that caused him to be taken away from them. The court stated it found several factors in aggravation applicable, including defendant's criminal history and the fact he was on MSR when he committed the offense, the receipt of compensation for committing the offense, and the need for deterrence. The court sentenced defendant to 10 years' imprisonment.

¶ 54 H. Motion to Reconsider the Sentence

¶ 55 In April 2018, defendant filed a motion to reconsider his sentence. Defendant argued, in part, his sentence was excessive considering the circumstances presented and the trial court's failure to consider several statutory mitigating factors. Following a May 2018 hearing, the court denied defendant's motion.

¶ 56 This appeal followed.

¶ 57 II. ANALYSIS

¶ 58 On appeal, defendant argues (1) the State failed to prove him guilty beyond a reasonable doubt, (2) the trial court failed to conduct an adequate inquiry into his *pro se* posttrial

claim of ineffective assistance of counsel, and (3) the trial court's sentencing decision amounts to an abuse of its discretion. The State disagrees with each of defendant's arguments.

¶ 59 A. Sufficiency of the Evidence

¶ 60 Defendant argues the State failed to prove him guilty beyond a reasonable doubt. Specifically, defendant asserts the State failed to prove he entered the dwelling place of another without authority.

¶ 61 When presented with a challenge to the sufficiency of the evidence, the question before this court 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 and internal quotation marks omitted.) *People v. Harris*, 2018 IL 121932, ¶ 26, 120 N.E.3d 900. "All reasonable inferences from the evidence must be drawn in favor of the prosecution." *People v. Hardman*, 2017 IL 121453, ¶ 37, 104 N.E.3d 372. Further, we must "not substitute [our] judgment for that of the trier of fact on questions involving the weight of the evidence or the credibility of the witnesses." *People v. Gray*, 2017 IL 120958, ¶ 35, 91 N.E.3d 876. "A criminal conviction will not be reversed for insufficient evidence unless the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt." *Id.*

¶ 62 In this case, the jury found defendant guilty of residential burglary. Section 19-3 of the Criminal Code of 2012 (720 ILCS 5/19-3 (West 2016)) provides, in part, as follows: "A person commits residential burglary when he or she knowingly and without authority enters *** the dwelling place of another *** with the intent to commit therein a *** theft." Defendant argues the State failed to prove he entered the dwelling place of another without authority given (1) the "he

said-she said" testimony about whether he lived at the Cronkhite residence, (2) the fact both he and Grady admitted to living together in the spring of 2017, (3) the fact his name was on the gas and electric account for the Cronkhite residence, and (4) the impeaching testimony from Investigator Blaine.

¶ 63 According to Grady, defendant never lived at the Cronkhite residence with her and her children. Grady testified she and her children moved to the Cronkhite residence after she ended her relationship with defendant due to his infidelity. Grady further testified defendant was not present when the lease to the Cronkhite residence was signed, did not receive a key to the residence, and did not pay rent or other expenses associated with the residence. Grady explained defendant was listed on the gas and electric account for the Cronkhite residence only because of her poor credit. Officer Nipper testified defendant reported on the day of his arrest he had been living in a friend's car ever since Grady had "kicked him out" two weeks earlier. Officer Nipper also testified defendant did not provide an address during booking. Ultimately, the jury, as the trier of fact, was in the best position to weight the evidence and make credibility determinations. Viewing the evidence in the light most favorable to the State, we find a reasonable jury could find defendant entered the dwelling place of another without authority.

¶ 64 In reaching this decision, we find *People v. Larry*, 2015 IL App (1st) 133664, ¶ 21, 45 N.E.3d 342, which reversed a conviction for residential burglary based on a finding the State failed to present sufficient evidence to establish the defendant entered the dwelling place of another, to be factually distinguishable. In that case, the court found the sole fact the defendant did not have a key to his girlfriend's apartment, the place he was charged with burglarizing, was insufficient to establish beyond a reasonable doubt he entered the dwelling place of another. *Id.*

¶ 17. In reaching its decision, the court noted the defendant's girlfriend admitted the defendant lived with her and had clothing present in the residence on the date of the offense and there was no evidence presented of any lease or who paid the rent. *Id.* ¶¶ 18-19. Unlike *Larry*, the jury in this case had more to consider than just testimony indicating defendant was not given a key to the Cronkhite residence when determining whether he entered the dwelling place of another without lawful authority.

¶ 65 B. *Pro Se* Posttrial Claim of Ineffective Assistance of Counsel

¶ 66 Defendant argues the trial court failed to conduct an adequate inquiry into his *pro se* posttrial claim of ineffective assistance of counsel. Specifically, defendant asserts the court "made no inquiry into and received no response from trial counsel about [the] claim raising a potential conflict" and "there is not enough evidence on the record to determine if a conflict existed at [his] trial."

¶ 67 When a defendant raises a *pro se* posttrial claim of ineffective assistance of counsel, a trial court must conduct an inquiry into the factual basis of the claim. *People v. Ayres*, 2017 IL 120071, ¶ 11, 88 N.E.3d 732. In conducting its inquiry, the court is permitted to discuss the claim with both the defendant and the defendant's trial counsel. *Id.* ¶ 12. The court may also consider what it observed at trial. *Id.* Where a court's inquiry discloses possible neglect of the case, it should appoint new counsel to independently investigate and represent the defendant at a separate hearing. *Id.* ¶ 11. If, on the other hand, the court determines the claim lacks merit or pertains only to matters of trial strategy, the court may deny the claim without appointing new counsel. *Id.*

¶ 68 In this case, the trial court received a letter from defendant raising a *pro se* posttrial claim of ineffective assistance based on his counsel's failure to request the appointment of a special prosecutor at trial. Defendant suggested a special prosecutor was needed as a conflict of interest resulted from the state's attorney representing him in prior criminal cases. After receiving the letter, the court conducted a hearing where defendant had the opportunity to elaborate on his claim and defendant's trial counsel had the opportunity to respond. Defendant's trial counsel, who defendant acknowledged speaking with about requesting the appointment of a special prosecutor, indicated he did not request a special prosecutor because no conflict existed where defendant's convictions were matters of public record. Neither defendant nor his trial counsel made any comment suggesting the assistant state's attorneys who prosecuted the instant case acquired private information from the state's attorney about defendant's prior criminal cases and then used that information against defendant. The court, with the same judge who presided over defendant's trial, was aware the only information concerning defendant's prior criminal cases elicited by the State at trial related to the fact his 2013 conviction for aggravated battery—a conviction introduced by the defense during defendant's direct examination—was a felony.

¶ 69 Contrary to defendant's argument, we find the trial court conducted an adequate inquiry into defendant's claim of ineffective assistance to determine it was based on counsel's failure to request the appointment of a special prosecutor at trial where an alleged conflict of interest resulted from the State eliciting information that his aggravated battery conviction, a conviction he received while allegedly represented by the State's Attorney, was a felony. We also find no error in the trial court's determination defendant's claim of ineffective assistance was meritless. Section 3-9008(a-10) of the Counties Code (55 ILCS 5/3-9008(a-10) (West 2016))

authorizes the appointment of a special prosecutor where "the State's Attorney has an actual conflict of interest in the cause or proceeding." Even if defendant was represented by the state's attorney in the case that resulted in his aggravated battery conviction, an actual conflict of interest would not result from the State eliciting public information that the aggravated battery conviction was a felony. Absent an actual conflict of interest, counsel could not have been ineffective for failing to request the appointment of a special prosecutor at trial.

¶ 70 C. Sentence Imposed

¶ 71 Defendant argues the trial court's sentencing decision amounts to an abuse of its discretion given the nature of the offense and his age, attempts to foster a relationship with his children, and willingness to engage in services.

¶ 72 Residential burglary is a Class 1 felony. 720 ILCS 5/19-3(b) (West 2016). Due to his prior convictions, defendant was subject to be sentenced as a Class X offender, which carried a sentencing range of 6 to 30 years' imprisonment. 730 ILCS 5/5-4.5-95(b) (West 2016). The trial court sentenced defendant to 10 years' imprisonment, a sentence which falls within the applicable statutory limits.

¶ 73 A sentence that falls within the applicable statutory limits is generally reviewed for an abuse of discretion. *People v. Price*, 2011 IL App (4th) 100311, ¶ 36, 958 N.E.2d 341. This is because a trial court is generally "in a better position than a court of review to determine an appropriate sentence based upon the particular facts and circumstances of each individual case." *Id.* (Internal quotation marks omitted.) "A sentence within statutory limits will not be deemed excessive and an abuse of the court's discretion unless it is 'greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.' " *People*

v. Pina, 2019 IL App (4th) 170614, ¶ 20 (quoting *People v. Fern*, 189 Ill. 2d 48, 54, 723 N.E.2d 207, 210 (1999)).

¶ 74 In reaching its sentencing decision, the trial court stated it considered the nature and circumstances of the offense as well as the history, character, and condition of defendant. The court also indicated it considered the statutory factors in aggravation and mitigation. Defendant, on appeal, characterizes the evidence as showing "[h]e simply wanted property he believed to be his from a place he felt he had a right to enter." However, there was also evidence at trial indicating Grady purchased the PlayStation gaming system and games for her son, defendant knew he was not welcome as he had been kicked out two weeks prior to his arrest, and defendant damaged a window to obtain access to the residence. Defendant also suggests the fact the State made a pretrial offer to recommend a four-year prison sentence supports his argument suggesting the 10-year sentence imposed by the trial court does not properly reflect the nature of the offense. However, the pretrial offer was in exchange for a guilty plea on the theft charge and not the residential burglary charge. After our review of the sentencing hearing, we cannot say the trial court's sentencing decision amounts to an abuse of its discretion.

¶ 75 III. CONCLUSION

¶ 76 We affirm the trial court's judgment.

¶ 77 Affirmed.