2011 IL App (2d) 100306-U
No. 2-10-0306
Order filed November 28, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 03-CF-1814
LORENZO KENT, SR.,	)	Honorable Steven G. Vecchio,
Defendant-Appellant.	)	Judge, Presiding.

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

ORDER

Held: The trial court did not abuse its discretion in sentencing defendant to a total of 35 years' imprisonment (on a 12-to-60 range) for aggravated criminal sexual abuse and criminal sexual assault: although there were mitigating factors, the sentence was justified by the factors in aggravation, particularly the seriousness of the offenses and their impact on the victims.

¶ 1 Defendant, Lorenzo Kent, Sr., pleaded guilty to one count of aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(1)(i) (West 2002)) and one count of criminal sexual assault (720 ILCS 5/12-13(a)(3) (West 2002)). Because defendant had prior convictions, the trial court sentenced him as a Class X offender (730 ILCS 5/5-5-3(c)(8) (West 2002)) to 15 years' imprisonment on the

aggravated criminal sexual abuse charge and 20 years' imprisonment on the criminal sexual assault charge, to be served consecutively. The trial court denied defendant's motion for reconsideration of his sentence, and defendant timely appealed. Defendant argues that his sentence is excessive. We affirm.

¶ 2 I. BACKGROUND

¶ 3 Defendant was indicted on two counts of predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1), (b)(1) (West 2002)), a Class X felony, three counts of aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(1)(i), (g) (West 2002)), a Class 2 felony, and two counts of criminal sexual assault (720 ILCS 5/12-13(a)(3), (b)(1) (West 2002)), a Class 1 felony.

¶ 4 On August 7, 2006, defendant appeared before the court to enter a plea of guilty. The State informed the court that the parties had reached an agreement on a partially negotiated plea. Defendant agreed to plead guilty to one count of aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(1)(i) (West 2002)) and one count of criminal sexual assault (720 ILCS 5/12-13(a)(3) (West 2002)). The remaining counts would be dismissed.

¶ 5 The factual basis for defendant's plea established that, in June 2003, defendant's daughter, S.K., disclosed that, while she was spending the night at defendant's house in May 2003, she awoke to discover defendant rubbing her leg and placing his penis between her buttocks. After S.K. disclosed this information, her sister, Z.K., who resided with defendant, came forward and disclosed that defendant had been sexually penetrating her vagina with his penis during the course of the prior year. Defendant provided a written statement indicating that he had engaged in sexual conduct with S.K. but that he had been asleep at the time. Defendant also indicated that, on one occasion, he woke up and found Z.K. straddling him. He stated that his penis was inside of her vagina and that he ejaculated before withdrawing his penis. Statements by S.K. and Z.K. indicated that the incidents

happened often. S.K. was 10 years old at the time of the offense against her. Z.K. was 13 years old when the offenses against her started and 14 years old when the offenses stopped.

¶ 6 A sentencing hearing took place on September 11 and October 10, 2006, at which the following testimony was presented.

¶ 7 S.D., who was 14 years old, testified that, in November 2003, she reported to a counselor that, at some time in the past year, while spending the night at defendant's home, defendant entered her bed and rubbed her buttocks with his hand and his penis. Defendant left the bed when S.D.'s sister, who was also in the room, woke up.

¶ 8 P.M., who was 18 years old, testified that defendant was her aunt's boyfriend. When P.M. was five or six years old, while visiting her aunt's house, defendant would come into her room at night and insert his penis into her vagina. She testified that it happened a lot. She did not report the abuse until she was 16 years old.

¶ 9 Z.K., who was 17 years old, testified that defendant began touching her sexually in 2002, when she was visiting. She moved in with defendant when she was 13 years old, and defendant began having sexual intercourse with her on a daily basis. In September 2002, Z.K. was diagnosed with genital herpes. She had not had sexual intercourse with anyone else but defendant. In January 2003, Z.K. discovered that she was pregnant with defendant's child. Defendant took Z.K. to a doctor for an abortion. When S.K. reported being abused by defendant, Z.K. was questioned about whether defendant had also abused her. At defendant's request, Z.K. initially denied being abused. However, she eventually reported it because people were accusing her sister of lying. Z.K. received counseling to help her deal with the abuse. She had trouble sleeping and suffered from depression. She also testified that defendant repeatedly contacted her via letters, although the court had forbidden defendant to do so.

¶ 10 Vernon Sims, a detective with the City of Rockford police department, testified that, in February 2003, he took a statement from P.M. concerning defendant. In June 2003, he interviewed defendant regarding P.M. Defendant told Sims that, during the time period in question, he had been addicted to drugs and alcohol and that, if he had done something, he would not remember it. Defendant never told Sims that P.M. was lying.

¶ 11 Defendant presented testimony from David L. Thurman, a chaplain with the Rockford Reachout Jail Ministry. Thurman testified that defendant had been very involved in Thurman's counseling program for the past two years. Defendant was attempting to reestablish positive relationships with his family and he had shown significant remorse. Defendant had made tremendous progress and wanted to be a good father and citizen. On cross-examination, Thurman acknowledged that defendant had claimed to have found God during a previous period of incarceration and that it was after that time that he had committed the present offenses.

¶ 12 At the conclusion of the testimony, the court heard arguments from counsel. The State asked that defendant be sentenced to the maximum sentence of 30 years' imprisonment on each count. Defendant asked for the minimum sentence.

¶ 13 In sentencing defendant, the court noted that it had considered the presentence investigation report, the financial impact of incarceration, and the evidence in mitigation and aggravation. In mitigation, the court specifically noted defendant's participation in various programs and ministries, which indicated "the important steps he has taken." The court noted that defendant had expressed remorse and that defendant, in pleading guilty, had accepted responsibility for his actions. The court emphasized that defendant had made progress towards rehabilitation. The court also noted that defendant had suffered from substance abuse and that defendant had "strengthen[ed] his character through religion." In addition, the court noted that defendant had done positive things in the

community, such as participating in the criminal justice program through Rosecrance and speaking at schools.

¶ 14 In aggravation, the court noted defendant's "substantial" criminal record, which included two prison sentences. The court also noted a "very, very serious" probation violation. The court further noted the "extremely aggravating" additional crimes testified to by S.D. and P.M. and defendant's contact through letters with one of the victims. The court emphasized the substantial and severe impact that defendant's offenses have had and will continue to have on the victims and also noted that defendant was in a position of trust. The court stated:

> "You are a father. And you said to the Court you wanted to be a good and honest father, and how do you show that? You show that by doing things that are evil—and I must use that word evil—and things that are selfish. To force yourself on these young people as you did is—is among the most serious offenses that can be brought before this Court. You did cause physical harm certainly to [Z.K.], and that's medically and emotionally. And I know that's certainly not to overlook the serious harm to [S.K.], the harm caused to her. It resulted in the destruction of the family. And it is a tragedy basically. That's the only word I can come up with."

The court further stated:

> "I must balance the positive and negative factors which have been displayed here today. *** I feel to sentence you to the maximum of 30 years on each count would be to ignore the positive factors that have been presented here insofar as your rehabilitative potential, but I also feel that a sentence to the minimum on each count would be to ignore the horrible and serious consequences of your actions and the effect on not one, not two, but five children."

The court then sentenced defendant to 15 years' imprisonment on the aggravated criminal sexual abuse charge and 20 years' imprisonment on the criminal sexual assault charge, to be served consecutively. The remaining charges were dismissed.

¶ 15 Following the denial of his motion for reconsideration of his sentence, defendant timely appealed.

¶ 16 II. ANALYSIS

¶ 17 Defendant argues that "[t]he trial court abused its discretion in imposing an aggregate prison sentence of 35 years where [defendant's] assumption of responsibility by pleading guilty, his expressed remorse, and his participation in numerous positive programs while incarcerated demonstrated his strong potential for rehabilitation." We disagree.

¶ 18 Defendant pleaded guilty to one count of aggravated criminal sexual abuse (720 ILCS 5/12-16(c)(1)(i), (g) (West 2002)), a Class 2 felony, and one count of criminal sexual assault (720 ILCS 5/12-13(a)(3), (b)(1) (West 2002)), a Class 1 felony. Due to defendant's criminal history, the offenses were enhanced to Class X felonies (730 ILCS 5/5-5-3(c)(8) (West 2002)) and each had a sentencing range of 6 to 30 years (730 ILCS 5/5-8-1(a)(3) (West 2002)). In addition, the sentences were mandatorily consecutive (730 ILCS 5/5-8-4(a)(ii) (West 2002)) for an aggregate sentencing range of 12 to 60 years. In exchange for his plea, the State dismissed the remaining charges; thus defendant was subjected to a significantly shorter sentencing range.

¶ 19 A sentence within the statutory limits for the offense will not be disturbed unless the trial court has abused its discretion. *People v. Coleman*, 166 Ill. 2d 247, 258 (1995). An abuse of discretion occurs if the trial court imposes a sentence that "is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *People v. Stacey*, 193 Ill. 2d 203, 210 (2000). It is well established that "[a] trial court has wide latitude in sentencing

a defendant, so long as it neither ignores relevant mitigating factors nor considers improper factors in aggravation." *People v. Roberts*, 338 Ill. App. 3d 245, 251 (2003). The existence of mitigating factors does not mandate imposition of the minimum sentence (*People v. Garibay*, 366 Ill. App. 3d 1103, 1109 (2006)) or preclude imposition of the maximum sentence (*People v. Pippen*, 324 Ill. App. 3d 649, 652 (2001)). It is the trial court's responsibility "to balance relevant factors and make a reasoned decision as to the appropriate punishment in each case." *People v. Latona*, 184 Ill. 2d 260, 272 (1998).

¶ 20 The Illinois Constitution requires that "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. The rehabilitative potential of the defendant is only one of the factors that must be weighed in deciding a sentence, and the trial court does not need to expressly outline its reasoning for sentencing or explicitly find that a defendant lacks rehabilitative potential. *People v. Evans*, 373 Ill. App. 3d 948, 968 (2007). The most important sentencing factor is the seriousness of the offense. *Id.* There is a presumption that the trial court considered all relevant factors in determining a sentence, and that presumption will not be overcome without explicit evidence from the record that the trial court did not consider mitigating factors or relied on improper aggravating factors. *People v. Payne*, 294 Ill. App. 3d 254, 260 (1998). The reviewing court is not to reweigh factors considered by the trial court. *Pippen*, 324 Ill. App. 3d at 653.

¶ 21 Defendant argues that the trial court did not adequately consider defendant's potential for rehabilitation. However, the record expressly refutes defendant's contention. The court specifically noted defendant's participation in numerous programs while in jail. The court noted that defendant had expressed remorse and that defendant had accepted responsibility for his actions by pleading guilty. The court emphasized that defendant had made progress towards rehabilitation. However,

the trial court found that these factors were countered by the factors in aggravation, particularly the seriousness of the offenses. Indeed, the court stated: "[T]o sentence you to the maximum of 30 years on each count would be to ignore the positive factors that have been presented here insofar as your rehabilitative potential, but I also feel that a sentence to the minimum on each count would be to ignore the horrible and serious consequences of your actions and the effect on not one, not two, but five children." Defendant essentially asks this court to reweigh the evidence and strike a new balance warranting a lesser sentence. This we may not do. The trial court was in the best position to observe and evaluate the myriad factors that comprised the sentencing determination, and we will not substitute our judgment for that of the trial court merely because we might have weighed the factors differently. *People v. Perruquet*, 68 Ill. 2d 149, 156 (1977).

¶ 22 In any event, as noted, the most important factor to be considered in sentencing a defendant is the seriousness of the offense. The offenses involved here were quite serious, and the victims were horribly affected. See *People v. Huddleston*, 212 Ill. 2d 107, 131-40 (2004) (providing a lengthy review of the devastating and long-lasting effects that child sexual abuse has on its young victims). Given the nature of the offenses, we cannot say that the trial court abused its discretion in imposing a sentence that is just below the midpoint of the range of available sentences. As we have absolutely no basis upon which to conclude that the court's sentencing decision was an abuse of discretion, we affirm it.

¶ 23 III. CONCLUSION

¶ 24 In light of the foregoing, we affirm defendant's sentence.

¶ 25 Affirmed.