2012 IL App (4th) 100826-U

Filed 8/6/12

NO. 4-10-0826

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Douglas County
JAMES D. CARDER,	)	No. 09CF128
Defendant-Appellant.	)	
	)	Honorable
	)	Michael G. Carroll,
	)	Judge Presiding.

JUSTICE McCULLOUGH delivered the judgment of the court.
Justices Steigmann and Pope concurred in the judgment.

ORDER

¶ 1 *Held*: The State presented sufficient evidence to support defendant's convictions for home invasion, aggravated kidnapping, and armed robbery and the trial court did not abuse its discretion in ordering defendant to serve his sentences consecutively.

¶ 2 Following a bench trial, the trial court found defendant, James D. Carder, guilty of home invasion (720 ILCS 5/12-11(a)(1) (West 2008)), aggravated kidnapping (720 ILCS 5/10-2(a)(5) (West 2008)), and armed robbery (720 ILCS 5/18-2(a)(1) (West 2008)) and sentenced him to consecutive terms of imprisonment totaling 25 years. Defendant appeals, arguing the State failed to prove him guilty beyond a reasonable doubt of each offense and the court erred in ordering him to serve consecutive sentences. We affirm.

¶ 3 On October 20, 2009, the State charged defendant with two counts of home invasion (720 ILCS 5/12-11(a)(1) (West 2008)), two counts of aggravated kidnapping (720 ILCS

5/10-2(a)(5) (West 2008)), one count of armed robbery (720 ILCS 5/18-2(a)(1) (West 2008)), and one count of residential burglary (720 ILCS 5/19-3 (West 2008)). It alleged defendant, while armed with a dangerous weapon, knowingly and without authority entered the home of his former girlfriend, Jennifer Watters, and used force or threatened force upon Watters's 14-year-old daughter, K.D., and K.D.'s 15-year-old friend, S.F; took K.D.'s cellular phone; and used force to carry K.D. and S.F. from one place to another against their will and with the intent to secretly confine them.

¶ 4 On November 16, 2009, defendant filed motions requesting the appointment of an expert to determine his fitness to stand trial and his sanity at the time of the alleged offenses. The trial court allowed defendant's motions and appointed Dr. Larry Jeckel as the examining psychiatrist. On January 21, 2010, defendant asserted his intention to rely upon the affirmative defense of insanity, referring to a report by Dr. Jeckel and stating his intention to call Dr. Jeckel as an expert witness. On February 10, 2010, the court conducted a hearing and found defendant fit to stand trial.

¶ 5 On June 21 and 22, 2010, defendant's bench trial was conducted. Evidence showed defendant and Watters met in December 2007, at an Alcoholics Anonymous meeting. The two began a relationship and, in August 2008, defendant moved into the home Watters shared with her two daughters, K.D. and M.K. In September 2009, Watters ended her relationship with defendant and asked him to move out of her home. On October 19, 2009, defendant returned to Watters's residence and entered the home at a time when K.D. and her friend S.F. were present. Watters testified she did not have plans for defendant to come to her house on October 19, 2009. She stated she worked on that date and typically worked from 7 a.m. to 3:30

p.m.

¶ 6 K.D. testified, on October 19, 2009, she attended school until 3:10 p.m. and was picked up by S.F.'s mother who dropped both K.D. and S.F. off at K.D.'s home. The girls entered the home through a side door that the family left unlocked. They watched television and then played with the family's cats. After being home approximately 15 to 20 minutes, K.D. heard the side door opening. She expected either her mother or her sister but, instead, saw defendant walk in the home. Defendant stated he needed to talk to K.D., gave her a hug, and told K.D. and S.F. to go into the living room. Defendant then told K.D. to give him her phone but she refused. According to K.D., defendant "[t]hen reached in and grabbed [her phone] from [her] pocket." She explained that he "was tugging" at her phone because it was deep in her pocket. K.D. stated she was afraid of defendant at that point because he just reached for and took her phone. On cross-examination, K.D. agreed that her phone may have been sticking out of her pocket enough for defendant to see it.

¶ 7 K.D. testified defendant next "grabbed [her] wrist," stating he wanted them to go to her room. Defendant directed K.D. and S.F. to a staircase that led to K.D.'s bedroom. K.D. stated she did not feel that she had a choice about whether to go up the stairs. When they reached the landing at the top of the staircase, defendant told the girls to take off their clothes and K.D. observed a knife in his hand. K.D. asked defendant what he was doing and then jumped over the staircase railing and fled to a neighbor's house.

¶ 8 S.F.'s testimony was substantially similar to that of K.D. She stated defendant entered the home and asked how K.D. and S.F. were doing and where K.D.'s mom was. Defendant then told the girls to go sit in the living room and asked for their phones. When K.D.

did not hand her phone over to defendant, he removed it from K.D.'s pocket. S.F. testified K.D. "kind of struggled to keep her phone" but defendant was able to take it from her.

¶ 9 According to S.F., defendant next directed the girls to go upstairs. She testified defendant "grabbed" K.D. by the arm and pulled her off the couch. Once upstairs, defendant told the girls to take their clothes off. S.F. testified K.D. "freaked out" and jumped over the staircase railing. Defendant tried to stop K.D. from jumping but S.F. grabbed defendant to pull him away from K.D. After K.D. jumped, S.F tried to run into K.D.'s bedroom. However, defendant grabbed S.F. around her chest and held a knife to her neck. S.F. stated she got scared and tried to push defendant away. Defendant threw her to the ground and sat on top of her, restraining her hands. S.F. stated defendant tried to pull her shirt up and she was able to grab the knife and throw it downstairs. S.F. tried to talk to defendant and asked him "why he was doing it." He did not respond but got off her, started to cry, and ran down the stairs. S.F. ran into K.D.'s room, where she stayed until police arrived on the scene.

¶ 10 The State further presented evidence that police arrived to find defendant inside the house with several lacerations on each of his arms and holding a bloody knife. Defendant was tased after refusing commands by police to put down the knife and telling them to go ahead and shoot him. Officer Matthew Reed testified, after being tased, defendant stated several times for officers to "just let [him] die" and that he had gone to the house "to do some evil stuff." Reed further stated defendant's vehicle was found parked approximately a block and a half away from Watters's residence. Inside the vehicle, police found a Dollar General bag that contained the opened packaging for a Rival brand paring knife and a receipt showing the item was purchased that day at 4:17 p.m. Reed testified the knife packaging appeared to match the knife found with

defendant at the scene.

¶ 11 Defendant presented evidence that he had been depressed in the past and previously tried to commit suicide. He testified on his own behalf, stating he did not understand his breakup with Watters, tried to mend their relationship, and became depressed. On October 19, 2009, defendant bought a 12 pack of beer and began drinking between 11 and 12 a.m. He decided to commit suicide and planned to get a knife and kill himself in Watters's shed. Defendant purchased a knife and parked his vehicle a street over from Watters's house so he could walk through an alley and get to her shed. Upon arriving at Watters's house, he decided to go into her house to obtain a bigger, sharper knife. Defendant did not believe anyone was in the house, stating he did not think it was that late and "the kids should have been in school." He stated he thought it was alright for him to enter the house because he had lived there for almost a year and a half and he was just going to be inside for a second.

¶ 12 When defendant entered the house, he saw K.D. and gave her a hug. He asked K.D. and S.F. to go sit in the living room. Defendant saw K.D.'s phone sticking out of her pocket and asked her for it so that she could not interfere with his plan to commit suicide. Defendant testified it was not his intention to keep the phone and K.D. handed it to him after he said "please." He then asked the girls to go upstairs because he did not want them to see him kill himself. Defendant stated, when they reached the top of the stairs, the knife slipped out of his sleeve and he observed K.D. running down the stairs. He remembered sitting on S.F. and S.F. telling him "stop, this isn't you." At that point, defendant realized what he was doing, threw the knife, and went downstairs. Defendant testified he did not recall anything else happening at the top of the stairs and specifically did not remember telling K.D. and S.F. to take off their clothes.

After going downstairs, defendant obtained a larger knife and began cutting himself. Ultimately, police officers arrived on the scene and tased him.

¶ 13 Finally, defendant presented the testimony of Dr. Jeckel, who noted defendant struggled with depression and substance abuse since he was a teenager and had previously required hospitalization. Dr. Jeckel opined defendant was consciously aware of his actions and could appreciate the criminality of his conduct when he entered Watters's home, took K.D.'s phone, took K.D.'s wrist, and directed the girls upstairs. However, he believed defendant lost contact with reality and became unable to appreciate the criminality of his conduct at the time he was at the top of the stairs with K.D. and S.F., told the girls to remove their clothing, and sat on top of S.F.

¶ 14 At the conclusion of the bench trial, the trial court took the matter under advisement. Later, it entered its verdict, finding defendant guilty of one count of home invasion, one count of aggravated kidnapping, and armed robbery. It further found defendant not guilty of residential burglary and not guilty by reason of insanity of both one count of home invasion and one count of aggravated kidnapping.

¶ 15 On August 20, 2010, the trial court conducted defendant's sentencing hearing. It ordered him to serve eight years in prison for armed robbery, nine years in prison for aggravated kidnapping, and eight years in prison for home invasion. The court also ordered those sentences to be served consecutively.

¶ 16 On September 7, 2010, defendant filed a motion to reconsider his sentence, arguing his sentences were "unduly harsh when taking into consideration [his] lack of criminal history, or contacts with law enforcement," and the trial court abused its discretion in ordering his

sentences to be served consecutively. On October 14, 2010, the court denied defendant's motion.

¶ 17 This appeal followed.

¶ 18 On appeal, defendant challenges the sufficiency of the evidence against him with respect to each of his three convictions. "When considering a challenge to the sufficiency of the evidence, a reviewing court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the required elements of the crime beyond a reasonable doubt." *People v. Gonzalez*, 239 Ill. 2d 471, 478, 942 N.E.2d 1246, 1250 (2011).

> "This court will not retry a defendant when considering a sufficiency of the evidence challenge. [Citation.] The trier of fact is best equipped to judge the credibility of witnesses, and due consideration must be given to the fact that it was the trial court that saw and heard the witnesses. [Citation.] It also is for the trier of fact to resolve conflicts or inconsistencies in the evidence. [Citation.]" *In re Jonathon C.B.*, 2011 IL 107750, ¶ 59, 958 N.E.2d 227, 241 (2011).

On review, "[a] criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225, 920 N.E.2d 233, 240-41 (2009).

¶ 19 First, we review the sufficiency of the evidence as it relates to defendant's home-invasion conviction. As alleged in this case, a person commits home invasion when he or she (1) is not a police officer and knowingly and without authority enters the dwelling place of another,

(2) knows or has reason to know that one or more persons is present within the dwelling, (3) is armed with a dangerous weapon other than a firearm, and (4) uses force or threatens the imminent use of force upon any person within the dwelling. 720 ILCS 5/12-11(a)(1) (West 2008).

¶ 20 Defendant maintains the State failed to prove him guilty of home invasion by failing to show he entered Watters's dwelling at a time when he knew or had reason to know that one or more persons were present inside. In reaching its verdict, the trial court specifically determined sufficient evidence existed to prove this element of the offense. We note the court set forth its judgment in a nine-page document, providing a detailed discussion of its findings with respect to each of the charged offenses. As to this particular element, whether defendant knew or had reason to know persons would be present within Watters's residence, the court provided a well-reasoned analysis. We agree with the court's findings and they are not so improbable or unsatisfactory as to create reasonable doubt of defendant's guilt.

¶ 21 Here, the trial court noted defendant had lived in the house with Watters and her daughters for approximately one year and the incident in question occurred within three to four weeks of defendant moving out of the house. The court also pointed out that K.D. was a student who got out of school at 3:10 p.m. each day and Watters generally worked from 7 a.m. to 3:30 p.m. each day. Evidence further showed that, before proceeding to Watters's residence on the day in question, defendant purchased the knife at issue at a Dollar General at 4:17 p.m. Finally, the court noted that defendant parked his car away from the home where it would not be noticed and, by his own assertion, hid the knife under his sleeve before entering the house. The court concluded the cumulative evidence was overwhelming when it combined "the secreting of the

car, with the concealment of the paring knife, and the fact that [defendant] knew when either *** K.D. and *** Watters would typically be home."

¶ 22 Evidence presented showed defendant was familiar with household schedules and attempted to hide both his car and the knife from view prior to entering Watters's home. Although defendant testified that he was unaware of the time of day he was entering the house and asserted he had no knowledge that anyone was home, the trial court expressed skepticism regarding defendant's version of events in light of the other evidence presented. The court, as the trier of fact, was in the best position to judge witness credibility and charged with resolving conflicts in the evidence. The court's decision regarding this element of the offense was supported by the evidence and we agree it was proved beyond a reasonable doubt.

¶ 23 Defendant also argues the State failed to prove him guilty of home invasion because it failed to show he possessed the intent to use force or threaten the imminent use of force at the time he entered Watters's residence. Initially, we disagree with defendant's position that the State was required to prove intent to use or threaten force *at the time of entry*. The plain language of the home invasion statute sets forth no such requirement and provides only that a defendant make an unauthorized, knowing entry into the dwelling of another when he knows or should know others are present, and "[w]hile armed with a dangerous weapon, other than a firearm, uses force or threatens the imminent use of force." 720 ILCS 5/12-11(a)(1) (West 2008); see also *People v. Gilyard*, 237 Ill. App. 3d 8, 22, 602 N.E.2d 1335, 1345 (1992) (An interpretation of the home invasion statute that would require an unauthorized entry to be accompanied by an intent to cause injury is inconsistent with the statute's plain language).

¶ 24 To support his position, defendant cites *People v. Bush*, 157 Ill. 2d 248, 623

N.E.2d 1361 (1993), a case involving application of the limited-authority doctrine. However, that doctrine is clearly inapplicable in the present case as are the holdings in *Bush*.

¶ 25 Further, we agree with the trial court's specific finding that sufficient evidence was presented to show defendant used force during the incident in question. Specifically, K.D. testified defendant told her to give him her phone and, when she refused, he "grabbed" the phone out of her pocket. She explained that he "was tugging" at her phone because it was deep in her pocket and that she became afraid of defendant. S.F. also testified defendant removed K.D.'s phone from her pocket and stated K.D. "kind of struggled to keep her phone" but defendant was able to take it. Evidence further showed defendant "grabbed" K.D. by the wrist and directed both girls to go upstairs. K.D. testified she did not feel like she had a choice about whether to comply with defendant.

¶ 26 Here, the evidence presented was sufficient to prove each element of home invasion beyond a reasonable doubt. Defendant is not entitled to reversal of his conviction.

¶ 27 Next, the trial court found defendant guilty of the aggravated kidnapping of K.D. A person commits aggravated kidnapping when he commits the offense of kidnapping while armed with a dangerous weapon other than a firearm. 720 ILCS 5/10-2(a)(5) (West 2008). "[A] defendant can commit the offense of kidnapping in any one of three ways: confinement, asportation, or inducement." *Siguenza-Brito*, 235 Ill. 2d at 225, 920 N.E.2d at 241. Here, the State charged defendant under the asportation theory, whereby a person commits the offense of kidnapping when he or she knowingly "by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will." 720 ILCS 5/10-1(a)(2) (West 2008).

¶ 28 In this case, defendant argues "the movement within K.D.'s own home did not constitute asportation." "[F]actors to consider when determining whether an asportation or detention is merely ancillary to another offense, or whether it rises to the level of an independent crime of kidnapping" include the following: "(1) the duration of the asportation or detention; (2) whether the asportation or detention occurred during the commission of a separate offense; (3) whether the asportation or detention is inherent in the separate offense; and (4) whether the asportation or detention created a significant danger to the victim independent of that posed by the separate offense." *Siguenza-Brito*, 235 Ill. 2d at 225-26, 920 N.E.2d at 241.

¶ 29 Here, defendant moved K.D. from the living room to the upstairs of the home. However, the brevity of the asportation or the limited distance of the movement will not necessarily preclude a kidnapping conviction. *Siguenza-Brito*, 235 Ill. 2d at 226, 920 N.E.2d at 241. We note *People v. Ware*, 323 Ill. App. 3d 47, 54-56, 751 N.E.2d 81, 88-89 (2001), in which the First District upheld the defendant's kidnapping conviction where the evidence showed he forced the victim a few feet from a hallway into a bathroom and detained the victim for only a few minutes.

¶ 30 In this case, testimony from both K.D. and S.F. showed defendant "grabbed" K.D. and directed her to the stairs. K.D. testified she did not feel that she had a choice about whether to go up the stairs. Although defendant's movement of K.D. occurred during the home invasion and armed robbery, such movement was not inherent in either of those offenses. Additionally, defendant's actions in taking K.D. upstairs posed a significant danger to K.D. independent of that posed by the other offenses in that, once upstairs, K.D. was more removed from the exits to the home, making her more easy to detain or conceal and less likely to be seen or heard by others.

The State's evidence was sufficient to support the asportation element of defendant's aggravated-kidnapping conviction.

¶ 31 Defendant also challenges the sufficiency of his aggravated-kidnapping conviction on the basis that the State failed to prove his intent to secretly confine K.D. As stated, an element of the offense at issue was that defendant intend to secretly confine K.D. against her will. 720 ILCS 5/10-1(a)(2) (West 2008). " 'Secret' denotes concealed, hidden, or not made public." *Siguenza-Brito*, 235 Ill. 2d at 227, 920 N.E.2d at 242. "Confinement includes, but is not limited to, enclosure within something, most commonly a structure or an automobile." *Siguenza-Brito*, 235 Ill. 2d at 227, 920 N.E.2d at 242. "The secret confinement element of kidnaping may be shown by proof of the secrecy of either the confinement or the place of confinement." *People v. Quintana*, 332 Ill. App. 3d 96, 104, 772 N.E.2d 833, 841 (2002).

¶ 32 Again, the evidence showed defendant "grabbed" K.D., directed her upstairs, and K.D. felt she had no choice but to comply. In reaching its decision, the trial court noted defendant's acknowledgment that "he took the phone from K.D. and took her upstairs so that she would not watch the suicide nor contact anyone to frustrate its unfolding." Additionally, the court found as follows:

> "[T]here was evidence from Dr. Jeckel that the Defendant's intent was to take the victims somewhere secret. [The State] argued that the Defendant admitted to Dr. Jeckel his intent was to 'lock' K.D. in the attic. *** Further, even if the door was not lockable, it does appear clear that there was an effort by the Defendant, together with substantial steps to fulfill that intent, to secret K.D. away in a

point of the house that was remote from public view – possible [*sic*] as remote as one can get in this house."

We agree with the court's view of the evidence and find it was sufficient to show defendant intended to secretly confine K.D.

¶ 33 The State's evidence was sufficient to prove each element of aggravated kidnapping beyond a reasonable doubt. Defendant is also not entitled to reversal of his conviction.

¶ 34 Last, defendant challenges the sufficiency of the evidence as it relates to his armed robbery conviction. "A person commits robbery when he or she takes property *** from the person or presence of another by the use of force or by threatening the imminent use of force." 720 ILCS 5/18-1(a) (West 2008). As charged by the State in this case, a person commits armed robbery when he or she commits the offense of robbery and "carries on or about his or her person or is otherwise armed with a dangerous weapon other than a firearm." 720 ILCS 5/18-2(a)(1) (West 2008).

¶ 35 Here, the State specifically alleged defendant committed armed robbery when, while armed with a dangerous weapon other than a firearm, he took K.D.'s cell phone by the use of force. Defendant argues his armed robbery conviction may not stand because he did not use or threaten force when taking K.D.'s cell phone. As addressed in relation to defendant's home-invasion conviction, we agree with the trial court's finding that sufficient evidence was presented to show defendant used force when taking K.D.'s phone. Again, K.D. described defendant as having "grabbed" her phone out of her pocket upon her refusal to hand it over. She testified he "was tugging" at her phone to remove it from her pocket. Evidence showed K.D. became afraid at that point and knew something was not right with the situation. S.F.'s testimony supported

K.D.'s version of events, showing defendant took K.D.'s phone from her pocket although K.D. "kind of struggled to keep her phone."

¶ 36 Additionally, we note the trial court specifically addressed this issue. In its written finding of facts, the court stated as follows:

> "As concerns the 'use of force[,]' defense counsel argued in his final argument that there was 'no force' until such point after the phone seizure that, according to Dr. Jeckel, the Defendant lacked the ability to conform his behavior to the law. [Defense counsel] also argued that there was 'no evidence that K.D. was afraid.' However, that is contradicted by K.D.'s direct statement that when the Defendant said 'give me your phone' she became 'afraid' of the Defendant because he was not supposed to be there, and he reached for her phone without consent. [Defense counsel] tried to exploit her previous recorded statement when she said, 'When he asked for my phone, I knew something was off (meaning that there was something wrong with the Defendant).' This original statement does not contradict that she was afraid of the Defendant. It merely states that she knew something was wrong. In her testimony on cross-examination she repeated that something was wrong and that she was also 'afraid' of him. K.D. testified that he reached out and pulled it from her left front pocket.
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> ***

> Also, on redirect, K.D. said she felt she had 'no option' but to give up her phone.
>
> Finally, there was testimony of previous discipline from the Defendant toward K.D., discipline that involved taking away either her phone privileges or phone (the court is unsure). Regardless, it shows parental authority over a minor such as to create a high deference of authority. Therefore, the resistance she did show to the Defendant's attempt to get the phone is even more remarkable."

¶ 37 The evidence presented supports the trial court's findings. Defendant was proved guilty of armed robbery beyond a reasonable doubt and is not entitled to reversal of his conviction for that offense.

¶ 38 Finally, on appeal, defendant argues the trial court abused its discretion in sentencing him to consecutive terms of imprisonment. He maintains consecutive sentences were unwarranted because he had a minimal criminal history, a history of steady employment, and posed no future danger to the public.

¶ 39 Pursuant to the Unified Code of Corrections (Code), the trial court may impose consecutive sentences when, "having regard to the nature and circumstances of the offense and the history and character of the defendant, it is the opinion of the court that consecutive sentences are required to protect the public from further criminal conduct by the defendant ***." 730 ILCS 5/5-8-4(c)(1) (West Supp. 2009). " 'Because the trial court is in the best position to consider a defendant's credibility, demeanor, general moral character, mentality, social environment, and

habits, the trial court's decision to impose consecutive, rather than concurrent, sentences for multiple crimes will not be reversed on appeal absent an abuse of discretion.' " *People v. Couch*, 387 Ill. App. 3d 437, 445, 899 N.E.2d 618, 625 (2008) (quoting *People v. King*, 384 Ill. App. 3d 601, 613, 892 N.E.2d 1196, 1206 (2008)).

¶ 40 Here, the trial court sentenced defendant to eight years in prison for armed robbery, nine years in prison for aggravated kidnapping, and eight years in prison for home invasion. It also ordered those sentences to be served consecutively, finding consecutive sentences were required to protect the public from further criminal conduct by defendant. The court discussed the nature and circumstances surrounding the offense, finding "there clearly was emotional, psychic harm visited upon" K.D. and S.F. It also found no question that defendant "planned to visit tremendous emotional and psychic harm upon *** Watters" for ending their relationship and failing to satisfy his request for an explanation.

¶ 41 Additionally, the trial court based its decision to impose consecutive sentences on facts relevant to defendant's history and character. The court noted defendant's history of alcohol abuse and mental-health issues, including depression, suicidal ideation, and multiple suicide attempts. It found defendant's alcohol abuse and mental-health issues were "triggered" by events in his life like Watters's decision to end their relationship. The court further noted that defendant was aware of his issues and the type of events that triggered those issues. Finally, the court emphasized (1) defendant's awareness of the manner in which to combat those issues and (2) his failure to seek help or utilize his support systems in the present case. In reaching its decision, the court stated as follows:

"I believe Dr. Jeckel talked about these triggers. [Defen-

> dant] had a trigger here and this one escalated. It escalated for the first time, I think Dr. Jeckel said [defendant] accessorized others for his martyrdom. It was so alarming that Dr. Jeckel considered at that point that [defendant] actually pulled the knife or the knife dropped out he was in a brief psychotic episode. [The State] sees this as an alarming trajectory of maladaptive behavior that creates a danger to the public for which there is a duty to protect. [Defense counsel] asked, is this a situation where the public needs to be protected or can it be safely protected with counseling?
>
> The court understands [defense counsel's] argument. Unfortunately, there was counseling available before this all began. [Defendant], in fact, had had counseling before this incident began. He had had medication. He was familiar with his medication. He was fully aware of his problems with alcohol. He was fully aware of his mental problems. Fully aware of the foundations and support he had to overcome his problems and yet all of that failed."

¶ 42 Here, the record shows the trial court considered relevant factors, including defendant's minimal criminal history, and appropriately weighed those factors. It determined, based upon the nature of the offense and defendant's history and character, which the court was in the best position to judge, that consecutive sentences were necessary to protect the public from further criminal conduct by defendant. The record supports the court's findings and we find no abuse of its discretion.

¶ 43 In this case, the State's evidence was sufficient to support each of defendant's convictions. Also, the trial court did not abuse its discretion by imposing consecutive sentences.

¶ 44 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal.

¶ 45 Affirmed.