2026 IL App (1st) 250324-U

No. 1-25-0324

Order filed September 8, 2026

First Division

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 23 CR 01673
	)	
HERMINIO ROSALES-RAMIREZ,	)	Honorable
	)	Marc William Martin,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Justices Howse and Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's convictions for predatory criminal sexual assault of a child and aggravated criminal sexual abuse over his challenge to the sufficiency of the evidence. The trial court did not abuse its discretion when imposing sentence.

¶ 2 Following a bench trial, defendant Herminio Rosales-Ramirez (whose first name also appears in the record as Hermino or Chilmico and whose last name also appears as Rosales-Ramirez Ward) was convicted of three counts of predatory criminal sexual assault of a child and four counts of aggravated criminal sexual abuse and sentenced to an aggregate term of 35 years in

prison. On appeal, defendant contends that the evidence was insufficient to support his convictions and that his aggregate sentence is disproportionate to the harm he caused and not reflective of his rehabilitative potential. We affirm.

¶ 3 In the present case (case number 23 CR 01673), defendant was charged with multiple counts of predatory criminal sexual assault of a child, M.F. (whose initials also appear in the record as M.F.C.), when defendant was more than 17 years old and she was less than 13 years old. 720 ILCS 5/11-1.40(a)(1) (West 2018). The State alleged that, for sexual gratification, defendant made sexual contact between his hand and M.F.'s sex organ (count I) and between defendant's sex organ and her hand (count IV), and sexually penetrated M.F.'s sex organ with his finger in separate acts (counts II and III). The State also charged defendant with multiple counts of aggravated criminal sexual abuse, alleging that defendant, for sexual gratification, engaged in sexual conduct where his sex organ touched M.F.'s breast (count V), his hand touched her breast in separate acts (counts VI and VII), his hand touched her buttocks (count VIII), and he transmitted semen onto M.F.'s body (count IX). *Id.* § 11-1.60(c)(1)(i).

¶ 4 In a separate case (case number 23 CR 01672), defendant was charged with predatory criminal sexual assault of a child and aggravated criminal sexual abuse against L.U.S., M.F.'s cousin. Prior to trial, the State offered defendant concurrent terms of three years in prison in exchange for pleading guilty to aggravated criminal sexual abuse in both cases. Defendant declined the offer.

¶ 5 At trial, M.F. testified that in summer 2018 she lived with her mother, Flor C.C. (Flor) (whose name also appears in the record as Flor C.-C. and Flor M.C.C.); M.F.'s younger brother;

and defendant, whom M.F. identified in court. Flor began work at 5 or 6 a.m. on weekdays and left her children with defendant until she returned in the afternoon.

¶ 6 Starting shortly after M.F.'s eighth birthday, defendant would enter M.F. and Flor's bedroom "almost every day" when Flor was at work. M.F. would lie in Flor's bed, and defendant would "kick out" M.F.'s brother if he were in the room. Defendant would remove his pants and M.F.'s shirt and "squeeze" her breasts. Later, he would "masturbate" his "hard" penis between her breasts. Defendant's penis emitted a "white, sticky liquid" onto M.F.'s stomach. Afterwards, he would put his pants on and leave. M.F. testified that defendant touched her breasts and masturbated his penis on her breasts the same way every time.

¶ 7 Defendant progressed to removing M.F.'s pants and touching her vagina, initially only "on top." Later, he would insert his fingers into M.F.'s vagina and "go in and out." Defendant would masturbate his penis with his other hand until he ejaculated and then put his pants on and leave. When M.F. would cry and tell him to stop, defendant would tell her to "shut up" and threaten to kill her and anyone she told.

¶ 8 Defendant would also turn M.F. over and squeeze her "butt." Defendant additionally put his penis in M.F.'s hand and masturbated with it. M.F. did not remember him ejaculating during this act.

¶ 9 Defendant touched M.F. on "[a]ll weekdays" for a month and half during the 2018 summer break and eventually touched and masturbated with her breasts, touched her "butt," and penetrated her vagina with his fingers every time. Defendant stopped touching M.F. about a month and a half after her eighth birthday when she returned to school.

¶ 10 At first, M.F. did not tell anyone about the incidents because defendant threatened to kill her and anyone she told. At some point after M.F. returned to school, but before her ninth birthday, M.F. became sick at school. She was "mentally and physically *** tired," and told Flor what defendant had been doing.

¶ 11 On cross-examination, M.F. testified that, on the day she was sick, Flor had called defendant to pick M.F. up at school and M.F. "already kn[e]w" that defendant "was going to touch [her]." Therefore, M.F. texted Flor that defendant "was abusing" her. When Flor returned home that day, M.F. told her only that defendant had touched her breasts many times. Defendant then left their house without returning.

¶ 12 At some point between 2018 and 2022, M.F.'s cousin, L.U.S., told her that defendant had abused her. Defendant used to live with L.U.S. M.F. then told L.U.S. about defendant's conduct, including that defendant had touched M.F.'s vagina and "butt."

¶ 13 In early 2022, M.F. underwent a forensic interview concerning another matter with Wendy Diaz from the Children's Advocacy Center (CAC). Diaz asked M.F. whether anyone was sexually abusing her. M.F. did not tell Diaz about defendant's conduct. Later, M.F. told her school counselor about defendant and then had another forensic interview with Diaz, in which M.F. disclosed that defendant had touched her breasts, vagina, and "butt."

¶ 14 On redirect examination, M.F. testified that she did not initially tell Diaz about defendant because M.F. was "just overwhelmed with the situation [she] was already going through." After speaking to her school counselor, M.F. felt comfortable discussing defendant's actions. M.F. clarified that the first forensic interview concerned an individual named "Roberto."

¶ 15 On recross-examination, M.F. conceded that she discussed Roberto with the police two or three times without mentioning defendant.

¶ 16 Diaz testified that her second interview with M.F. occurred on October 21, 2022, and was video-recorded. The State published the recording, which is included in the record on appeal and has been viewed by this court.

¶ 17 The forensic interview largely corroborates M.F.'s testimony, and she describes at least two instances of defendant's conduct in greater detail. These details include that defendant masturbated and "moan[ed]" while "squish[ing]" her breasts hard enough to leave marks.

¶ 18 The parties stipulated that Flor would testify that defendant, a close family friend, lived with her, her son, and M.F. in 2018 and stayed home with the children when she went to work from 6 a.m. to 3:30 p.m. on weekdays. The parties also stipulated that Hanover Park police detective Nikki Arroyo would testify that defendant stated that he was born on November 1, 1980, and that he had lived with Flor, her son, and M.F. at some point in 2018. The State entered a certified copy of M.F.'s birth certificate reflecting that she was born in July 2010.

¶ 19 After argument, the trial court found defendant guilty of three counts of predatory criminal sexual assault of a child predicated on penetrating M.F.'s sex organ with his finger (counts II and III) and contact between defendant's sex organ and M.F.'s hand (count IV). The court also found defendant guilty of aggravated criminal sexual abuse predicated on contact between defendant's sex organ and M.F.'s breast (count V), contact between defendant's hand and M.F.'s breast (counts VI and VII), and defendant transmitting semen onto M.F.'s body (count IX).

¶ 20 The trial court found M.F. credible "[b]ased on firsthand observation of [her] demeanor," describing her as "calm, collected" and "careful in her testimony." The court did not find M.F.

"combative or argumentative," and she did not appear to be "someone who had an ax to grind." The court noted that M.F. "gave detailed physical descriptions" of the charged acts and that this was not a case with "an exceedingly long delayed outcry," particularly as it concerned defendant touching M.F.'s breasts. The court commented that M.F. could not be "faulted" that no one contacted the authorities or collected physical evidence when she was eight years old. The court credited M.F.'s testimony of defendant's threats and found her explanations for the delay in her full outcry "reasonable and credible." Finally, the court opined that the forensic interview corroborated M.F.'s testimony.

¶ 21 The court acquitted defendant of the remaining counts for predatory criminal sexual assault of a child and aggravated criminal sexual abuse.

¶ 22 Defendant moved for a new trial, arguing, *inter alia*, that the evidence was insufficient to prove his guilt beyond a reasonable doubt. The trial court denied his motion, reiterating that the forensic interview corroborated M.F.'s credible testimony.

¶ 23 Defendant's presentence investigative report (PSI) reflected that he was 44 years old at sentencing. He was born in El Salvador and raised by both his parents, with whom he had a good relationship before their passing. He had one sister and was separated from his wife, who remained in El Salvador with their two children. Defendant maintained a good relationship with his children and sent them money when able. Defendant also had a good relationship with his girlfriend and his cousin.

¶ 24 Defendant left school in El Salvador after the sixth grade to work on his father's farm. After coming to the United States, he worked full-time at a car wash until his arrest. Apart from

asthma, defendant described his health as good. He did not report problems with alcohol or drugs. Defendant had no criminal background.

¶ 25 At the sentencing hearing, the State read M.F.'s and Flor's victim impact statements. M.F. said she was "a little girl" whose "innocence" was taken and that defendant had "changed [her] life forever[,]" causing her to self-harm, use drugs, attempt suicide, and experience daily flashbacks. Flor said her "world fell apart" the day she learned of defendant's abuse, and both M.F. and Flor wanted him to "pay." In aggravation, the State argued that what defendant had done to M.F. was "so egregious and unimaginable" that he deserved a greater sentence.

¶ 26 In mitigation, defense counsel highlighted defendant's poverty in El Salvador, his work history, his children, his politeness to defense counsel, and his lack of a criminal background.

¶ 27 In allocution, defendant claimed that "[e]verything [was] false," "what [the court] heard [was] because of personal hate," and defense counsel had failed to call certain witnesses. The trial court continued the case and undertook an inquiry pursuant to *People v. Krankel*, 102 Ill. 2d 181, 189 (1984), eventually finding defense counsel's decisions not to call the witnesses reasonable.

¶ 28 The trial court proceeded with the sentencing hearing and allowed defendant to speak in allocution again. Defendant maintained his innocence.

¶ 29 The trial court stated that it had considered the nature and circumstances of the offense, defendant's history and background, the PSI, counsels' arguments in aggravation and mitigation, statutory factors in aggravation and mitigation, the victim impact statements, and defendant's allocutions. The court stated that it did not consider in aggravation the harm defendant had caused, but reiterated that it considered the nature and circumstances of defendant's conduct along with the goal of deterrence.

¶ 30 The trial court expressly discussed 10 statutory factors in mitigation and addressed why each one did or did not apply. 730 ILCS 5/5-5-3.1(a) (West 2018). In relevant part, the court could not conclude that defendant's "conduct neither caused nor threatened serious physical harm to another." The court observed defendant's lack of a criminal background, "assume[d]" that defendant "would not put himself" in similar circumstances, and opined that his "character and attitudes" suggested he was "unlikely to commit another crime."

¶ 31 The trial court sentenced defendant to an aggregate 35 years in prison. For predatory criminal sexual assault of a child (counts II-IV), the court imposed three consecutive prison terms of 10 years each. For aggravated criminal sexual abuse (count V), the court imposed a 5-year term consecutive to his 30-year term. On each remaining count of aggravated criminal sexual abuse (counts VI, VII, and IX), the court imposed separate three-year terms to run concurrently with each other and to the five-year term. The court stated that imposing consecutive sentences on the aggravated criminal sexual abuse counts "really doesn't seem necessary."

¶ 32 Defendant filed a motion to reduce his sentence, arguing that the sentence was excessive considering his background and the nature of the offenses. After a hearing, the trial court denied defendant's motion, noting that it had considered all of the mitigation and that defendant received a sentence "substantially" under the maximum.

¶ 33 On appeal, defendant first challenges the sufficiency of the evidence to support his convictions for predatory criminal sexual assault of a child and aggravated criminal sexual abuse.

¶ 34 When reviewing a challenge to the sufficiency of the evidence, this court "must determine 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."

(Internal quotation marks omitted.) *People v. Johnson*, 2026 IL 131337, ¶ 59. A credible witness's testimony can support a sex-crime conviction, "even absent corroborating physical evidence." *People v. Wells*, 2019 IL App (1st) 163247, ¶ 23. The trier of fact is responsible for ascertaining witness credibility, weighing evidence and resolving conflicts therein, and drawing reasonable inferences as to basic and ultimate facts. *People v. Daniels*, 2025 IL App (1st) 230823, ¶¶ 17, 20. We will not retry a defendant or substitute our judgment for the trier of fact's as to the weight of evidence and witness credibility. *Johnson*, 2026 IL 131337, ¶ 59. This court will disturb a criminal conviction only where "the evidence is so unreasonable, improbable, or unsatisfactory" that reasonable doubt of a defendant's guilt remains. *People v. Jones*, 2023 IL 127810, ¶ 28.

¶ 35 To sustain a conviction for predatory criminal sexual assault of a child, the State must establish that the defendant was at least 17 years old and committed "an act of contact, however slight, between the sex organ or anus of one person and the part of the body of another for the purpose of sexual gratification" against a victim under 13 years of age. 720 ILCS 5/11-1.40(a)(1) (West 2018).

¶ 36 To sustain a conviction for aggravated criminal sexual abuse, the State must show that the defendant was at least 17 years old and "commit[ed] an act of sexual conduct" against a victim under 13 years of age. *Id.* § 11-1.60(c)(1)(i). "Sexual conduct" includes "knowing touching or fondling *** of any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the *** body of the victim, for the purpose of sexual gratification." *Id.* § 11-0.1.

¶ 37 Courts generally infer whether an act was committed for sexual gratification from circumstantial evidence, such as "the removal of clothing, heavy breathing, placing the victim's

hand on the accused's genitals, an erection, or other observable signs of arousal." *In re M.G.*, 2024 IL App (1st) 232106, ¶ 31. It can also be inferred solely from nature of the act. *People v. Schofield*, 2024 IL App (4th) 220961, ¶ 69.

¶ 38 While defendant challenges the sufficiency of the evidence showing he committed the alleged acts against M.F., he does not challenge the evidence of his and M.F.'s respective ages.

¶ 39 Viewing the evidence in the light most favorable to the State, a rational factfinder could have found defendant guilty of predatory criminal sexual assault of a child and aggravated criminal sexual abuse.

¶ 40 Regarding the predatory criminal sexual assault of a child offenses, M.F. testified that defendant penetrated her sex organ with his fingers (counts II and III) and made contact between his sex organ and her hand (count IV). Defendant's sexual gratification could reasonably be inferred from M.F.'s testimony that defendant masturbated with his hand and ejaculated. See *M.G.*, 2024 IL App (1st) 232106, ¶ 31 (sexual gratification may be inferred from placing the victim's hand on the accused's sex organ, an erection, and "other observable signs of arousal").

¶ 41 Regarding the aggravated criminal sexual abuse offenses, M.F. testified that defendant removed his pants and masturbated his "hard" penis between her breasts until he ejaculated onto her stomach (counts V and IX). He also "squeeze[d]" her breasts, removed his pants and her shirt when doing so, and left after ejaculating (counts VI and VII). Defendant's sexual gratification could reasonably be inferred from the removal of clothing and his "hard" penis and ejaculation. See *id.*

¶ 42 According to M.F., defendant touched her daily on "[a]ll weekdays" for over a month and a half while Flor was at work, with his conduct progressing from squeezing her breasts to

penetrating her sex organ with his fingers. In the forensic interview, M.F. recounted defendant's conduct consistently with her testimony and provided additional details as to certain acts, such as defendant masturbating and moaning while "squish[ing]" her breasts hard enough to leave marks.

¶ 43 The trial court found M.F. credible "[b]ased on firsthand observation of [her] demeanor" and did not find her as "someone who had an ax to grind." M.F.'s credible testimony, corroborated by her forensic interview recounting defendant's acts performed against her and the reasonable inference that he performed the acts for sexual gratification, provided sufficient evidence to convict defendant of predatory criminal sexual assault of a child and aggravated criminal sexual abuse. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 44 Nonetheless, defendant contends that M.F.'s account is unbelievable, citing the lack of corroborating physical or "objective" evidence, her delayed outcry, and the implausibility that neither her brother nor mother would have noticed indications of the sexual acts. He also points out that he did not confess to committing any of the acts.

¶ 45 Here, the trial court explicitly found M.F. credible and considered defendant's attack on her credibility. We will not substitute our judgment for that of the trier of fact on questions involving M.F.'s credibility or reverse defendant's conviction merely because he claims she was not credible. See *People v. Gray*, 2017 IL 120958, ¶¶ 35-36. Additionally, physical evidence corroborating M.F.'s account was not necessary to sustain a conviction. See *Wells*, 2019 IL App (1st) 163247, ¶ 23 (a credible witness's testimony is sufficient to convict, even without physical evidence); see also *People v. Cookson*, 215 Ill. 2d 194, 215 (2005) (noting that "in many if not most child sexual abuse cases, there [is] no testimony from third-party eyewitnesses").

¶ 46 Moreover, the trial court found that M.F.'s explanation for her delayed outcry, namely, that defendant had threatened her and anyone she told, to be "reasonable and credible." See *Johnson*, 2026 IL 131337, ¶ 59 (a reviewing court will not substitute its judgment for the trier of fact on credibility determinations); *M.G.*, 2024 IL App (1st) 232106, ¶ 29 (delayed outcry "may be reasonable where the victim's silence can be attributed to fear of the offender"). Also, while no evidence showed that defendant made an inculpatory statement, the trial court, as trier of fact, was under no obligation to accept any possible explanation of the evidence consistent with defendant's innocence and elevate it to reasonable doubt. *People v. Sutherland*, 223 Ill. 2d 187, 272 (2006). Defendant essentially is requesting this court to reweigh the evidence and the reasonable inferences therefrom in his favor, which we cannot do. See *Siguenza-Brito*, 235 Ill. 2d at 228 (it is not this court's function to retry the defendant).

¶ 47 In conclusion, the evidence, when viewed in the light most favorable to the State, was not so "unreasonable, improbable, or unsatisfactory" as to fail to prove defendant guilty beyond a reasonable doubt of predatory criminal sexual assault of a child and aggravated criminal sexual abuse.

¶ 48 Defendant next contends that his aggregate sentence was disproportionate to his offenses and failed to adequately reflect his background and rehabilitative potential.

¶ 49 The proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. 1, § 11) provides that a sentence must "be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." A trial court has great discretion when fashioning a sentence. *People v. Murry*, 2025 IL App (1st) 221202, ¶ 118. In exercising its discretion, a trial court must consider all factors in aggravation and mitigation. *People v. Rich*,

2025 IL App (1st) 230818, ¶ 43. The presence of mitigating factors does not mandate a minimum sentence. *People v. Hussain*, 2024 IL App (1st) 230471, ¶ 44.

¶ 50 This court defers to the trial court's sentence because it is better able to evaluate a "defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." (Internal quotation marks omitted.) *People v. Brown*, 2025 IL App (1st) 230772, ¶ 150. We will not alter a trial court's sentence because we would have weighed aggravating and mitigating factors differently. *Rich*, 2025 IL App (1st) 230818, ¶ 43. Unless a defendant affirmatively shows otherwise, this court presumes that the trial court considered all mitigating evidence. *People v. Doe*, 2026 IL App (1st) 240300, ¶ 52. We presume a sentence within the applicable statutory range to be proper and not an abuse of discretion unless it "is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." (Internal quotation marks omitted.) *Id.* ¶ 53.

¶ 51 Defendant was convicted of three counts of predatory criminal sexual assault of a child, a Class X felony with a statutory sentencing range of 6 to 60 years in prison. 720 ILCS 5/11-1.40(b)(1) (West 2018). Because each of defendant's 10-year terms falls within the statutory range, they are presumptively proper.

¶ 52 Defendant was also convicted of four counts of aggravated criminal sexual abuse, a Class 2 felony (*id.* §11-1.60(g)) with a statutory sentencing range of 3 to 7 years in prison or an extended term of 7 to 14 years (730 ILCS 5/5-4.5-35(a) (West 2018)). A Class 2 felony sentence may be imposed concurrently or consecutively. *Id.* § 5-4.5-35(g). Defendant's consecutive five-year and concurrent three-year terms fall within this range, so we presume them proper.

¶ 53 The Unified Code of Corrections mandates consecutive terms for predatory criminal sexual assault of a child but limits the length of an aggregate consecutive sentence to the combined maximum sentence available for the two most serious felonies involved. *Id.* § 5-8-4(d)(2), (f)(1). The combined maximum sentence available for two counts of predatory criminal sexual assault of a child is 120 years. As defendant's aggregate 35-year sentence falls below that, we presume it proper.

¶ 54 Defendant contends that his aggregate 35-year sentence is disproportionate to his offenses, highlighting that the State initially offered him 3 years in prison for a guilty plea to one count of aggravated criminal sexual abuse in this case. While acknowledging that predatory criminal sexual assault of a child and aggravated criminal sexual abuse are "quite serious," he posits that he did not cause harm warranting imprisonment for more than 30 years, such as "death, severe bodily harm, or even great bodily injury." Defendant additionally argues that the 35-year sentence does not reflect his rehabilitative potential, which will be obviated when he is released at 70 years old. He emphasizes his lack of criminal convictions along with his educational, working, and familial backgrounds.

¶ 55 The trial court did not abuse its discretion when sentencing defendant. As noted, his sentence is presumptively proper and also reflects the seriousness of his crimes, the most important sentencing factor. *Doe*, 2026 IL App (1st) 240300, ¶ 51. Defendant repeated his sexual acts against eight-year-old M.F. over a month-and-a-half-long period and threatened to kill her and anyone she told. Although defendant argues he did not cause "death, severe bodily harm, or even great bodily injury," the trial court could not conclude, and neither can we, that "defendant's conduct neither

caused nor threatened serious physical harm to another." Defendant's sentence is not disproportionate—particularly where it is 85 years below the maximum available sentence.

¶ 56 Furthermore, defendant has not shown that the trial court failed to consider his background and rehabilitative potential. As noted, we presume the trial court considered all the mitigating evidence. *Id.* ¶ 52. Here, the court explicitly considered defendant's background, the PSI, and all statutory factors in mitigation. It expressly detailed why it did or did not apply 10 statutory mitigating factors, including that defendant had no criminal background and was unlikely to commit another crime. 730 ILCS 5/5-5-3.1(a)(7), (9) (West 2018). Defendant's rehabilitative potential and lack of a criminal background did not require the court to impose the minimum sentence. *Hussain*, 2024 IL App (1st) 230471, ¶ 44. Moreover, the trial court exercised its discretion and elected not to impose consecutive sentences on each aggravated criminal sexual abuse count. In sum, the trial court did not abuse its discretion when sentencing defendant.

¶ 57 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 58 Affirmed.