NOTICE
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2026 IL App (5th) 240148-U

NO. 5-24-0148

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. ZACHARIA C. DAMBRELL, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Saline County. No. 19-CF-623 Honorable Jayson M. Clark, Judge, presiding.

JUSTICE HACKETT delivered the judgment of the court.
Justices Vaughan and McHaney concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not abuse its discretion in sentencing defendant to the maximum sentence after revoking his probation for burglary when he committed two felonies during probation.

¶ 2 Following a hearing, defendant, Zacharia C. Dambrell, was found guilty of violating his probation for burglary, a Class 2 felony. 720 ILCS 5/19-1 (West 2018). Thereafter, the trial court sentenced him to the maximum sentence of seven years in the Illinois Department of Corrections (IDOC) to be served at 50% and one year of mandatory supervised release. On appeal, defendant does not challenge his conviction but rather attacks his sentence as excessive. For the reasons that follow, we affirm the order of the circuit court of Saline County.

¶ 3 I. BACKGROUND

¶ 4 On December 26, 2019, defendant was charged with one count of burglary (*id.*) and one count of criminal trespass (*id.* § 21-3). The charges stemmed from a December 23, 2019, incident where Brianna Bishop (Brianna) requested the Eldorado Police Department to drive past one of her buildings on Beulah Street in Eldorado. The police found two individuals leaving the premises, defendant and Tony Dambrell (Tony). Defendant informed Officer Dustin Gulley that he had been staying at the building, and Tony was helping him remove his belongings. Office Gulley observed copper pipe sticking out of a backpack in the trailer attached to defendant's bicycle. Officer Gulley asked about the pipe, and defendant admitted that the bag belonged to him and that he had taken plumbing from the residence. Upon searching the bag, Officer Tom Martin found a hypodermic needle. After being advised per *Miranda*,[1] defendant stated that the hypodermic needle was his. Defendant claimed that Dylan Bishop had given him permission to stay at the residence. Officer Gulley attempted to contact Brianna but spoke to Brianna's boyfriend, Brandon Beal, instead. Beal informed Officer Gulley that Dylan had no authority over the property and that Brianna said "no one" was supposed to be on the property. The police arrested defendant. Officer Martin contacted Brianna, who informed the police that she wished to press charges.

¶ 5 On April 8, 2020, defendant entered a plea agreement, pleading guilty to burglary in exchange for the State recommending a sentence of 30 months' probation and dismissing the charge of criminal trespass and an unrelated pending criminal case. The trial court found that the plea was entered knowingly and voluntarily and accepted the plea agreement, sentencing defendant to 30 months of probation.

[1]See *Miranda v. Arizona*, 384 U.S. 436 (1966).

¶ 6 On September 2, 2020, the State filed a petition to revoke probation, alleging that defendant had not reported his latest address to the Saline County Probation Office. A warrant was issued for defendant's arrest, bond was posted, and first appearance was set for September 28. Due to a COVID-19 outbreak at the state's attorney's office, the hearing was reset for November 2. When defendant failed to appear, a bond forfeiture hearing was set for December 7. Defendant appeared at the December 7 hearing, and a status hearing for the violation of probation was set for January 7, 2021. Defendant failed to appear on January 7 but contacted the trial court and explained that he was at work. By agreement, the status hearing was reset for March 18. On March 18, the status hearing was reset for May 20 by agreement. On May 19, defense counsel informed the court that defendant was in rehab, and the status hearing was reset to June 3. On June 3, the violation of probation hearing was set for September 2. Defendant failed to appear and a warrant for his arrest was issued on September 3. On October 8, 2021, defendant appeared before the trial court and explained that he missed the September 2 hearing as he was incarcerated in the Jackson County jail. Defendant posted bond and a pretrial hearing date was set for October 21, 2021. Defendant failed to appear, and the hearing was continued to January 13, 2022. Due to another COVID-19 quarantine, the January 13 hearing was rescheduled to January 27. Defendant again failed to appear, and a warrant for his arrest was issued on February 1.

¶ 7 On June 2, 2022, the State submitted an amended petition to revoke probation, adding six additional allegations of defendant violating probation. The State alleged that defendant violated his probation on August 24, 2021, by committing the offense of retail theft, a Class 3 felony, in Jackson County. The petition noted that defendant pled guilty to the offense on March 9, 2022. The State also alleged that defendant had been charged with committing aggravated domestic battery, a Class 2 felony; aggravated battery, a Class 3 felony; and domestic battery, a Class A

misdemeanor, respectively on or about May 20, 2022, in Jackson County. The State further alleged that defendant failed to make payments toward his court balance as required by his probation and failed to verify completion of his substance abuse evaluation or recommended treatment. A copy of the guilty plea for the retail theft and a copy of the battery charges were attached to the amended petition as exhibits.

¶ 8 On September 14, 2022, the warrant of arrest was served. The pretrial hearing was set for October 13. At the hearing, defendant claimed he missed the January 27, 2022, hearing because he had been admitted to the mental institution at Touchette Hospital in Centreville. The hearing was reset to November 3. On November 3, a plea hearing was set for November 16.

¶ 9 At the plea hearing, the State informed the trial court that an agreement had been reached. Defendant stated that he understood the terms of the agreement but informed the court that his new medication made his brain "foggy." The trial court did not accept the plea and rescheduled the hearing for a later date. On January 4, 2023, the rescheduled hearing took place. The State informed the trial court that defendant had agreed to admit that he had committed aggravated battery in Jackson County on May 20, 2022, violating his probation in the current case. The trial court admonished defendant that, should he admit to the violation, he would be resentenced on the charge of burglary, a Class 2 felony with a sentencing range of three to seven years in prison. Defendant admitted to the violation. The court found the admission was entered knowingly and voluntarily and scheduled the sentencing hearing for February 15, 2023.

¶ 10 At the sentencing hearing, defendant alleged that he had sent letters to the trial court requesting the withdrawal of his revocation admission. The State and defense counsel agreed to continue the matter so a proper motion could be filed. Counsel filed the motion to vacate the admission on May 1, 2023, arguing that defendant did not have a sufficient understanding of the

consequences of the agreement. The hearing on the motion was held on May 2, 2023, and the trial court allowed defendant to withdraw his admission.

¶ 11 A new hearing for the probation violation was held on June 1, 2023. Lisa Rice, supervisor of the probation department of Saline County, testified that she was aware that defendant was charged with the offenses of retail theft and aggravated battery in Jackson County while on probation. The State offered a record of defendant's convictions as evidence. The trial court found that defendant violated his probation on April 8, 2020, by failing to update his address with the Saline County probation office and by committing aggravated battery, and revoked defendant's probation.

¶ 12 On July 14, 2023, the trial court held defendant's final sentencing hearing in this matter. The State offered that defendant has a significant criminal history, having three prior convictions in Mississippi: felony armed robbery in 2001, felony grand larceny in 2008, and misdemeanor improper credit card use in 2017. For the 2001 conviction, defendant was sentenced to six years in the Mississippi Department of Corrections, followed by three years of probation. Defendant failed probation in 2006, which the State argued showed a history of failing to comply with the terms of probation. The State also argued that, prior to the instant case, defendant was convicted of misdemeanor retail theft in 2016 in Williamson County. The State indicated that, while on probation for this matter, defendant had been convicted of two additional Class 3 felonies, retail theft and aggravated battery. Based on defendant's criminal history and the fact that he continued to commit felonies while on felony probation, the State recommended that defendant's probation be revoked and that he be sentenced to six years in prison subject to six months of mandatory supervised release, along with paying fees, fines, and court costs.

¶ 13 Defense counsel argued defendant should receive further probation in order to obtain mental health treatment. Defense counsel argued that defendant's presentence investigation report (PSI) showed that defendant had a long history of mental illness and that he struggled with substance abuse. Defense counsel further argued that proper treatment and medication would set defendant on the right path and that defendant would not receive the treatment he needs from IDOC. Defense counsel requested that defendant be sentenced to 30 months' probation and be ordered to obtain mental health treatment. In response, the State noted that defendant had been successfully discharged from a treatment program on May 18, 2021, but "continued to commit more times [*sic*] after being successfully discharged from substance abuse treatment."

¶ 14 After hearing argument, the trial court stated that it considered the PSI and all addenda and supplements, took judicial notice of the record and court file, considered the financial impact of incarceration based upon the financial impact statement, considered the arguments and statements regarding the factors in aggravation and mitigation, and considered sentencing alternatives argued by the parties. The trial court also stated that it considered the factors in aggravation as set forth in section 5-5-3.2 of the Unified Code of Corrections (Code) (730 ILCS 5/5-5-3.2 (West 2022)) and in mitigation as set forth in section 5-5-3.1 of the Code (*id.* § 5-5-3.1).

¶ 15 The trial court then gave its view of the PSI, stating that there were notable issues in the report in regard to whether defendant would be "likely to comply with a continued period of probation," and that defendant failed to come to court multiple times in the instant case. The trial court considered that the case involved breaking into an unoccupied residence and stealing copper pipe from the residence. The trial court stated that deterrence for crimes of that nature was "particularly compelling" in this case as Saline County had an ongoing problem of people breaking into abandoned homes and buildings and stealing copper to sell, usually for drugs. The trial court

stated that it did not know if the copper was stolen for drug money in this matter, but nevertheless, the court believed that people "breaking into abandoned buildings and stealing things from inside" was a problem.

¶ 16 The trial court also considered that defendant committed two felony offenses while on probation. Defendant's criminal record also indicated that he committed grand larceny shortly after release from the Mississippi Department of Corrections for the armed robbery conviction. The trial court additionally noted that defendant had a history of missing court dates and had *ex parte* judgments entered against him.

¶ 17 The trial court acknowledged that the PSI showed defendant had a history of substance abuse and that substance abuse was implicated in the crime by defendant's own admission in the PSI. The trial court noted that defendant had a serious problem with methamphetamine but completed treatment in 2021 or 2022. The trial court further noted that, while defendant had a lengthy mental health history, in-patient treatments tended to be brief.

¶ 18 The trial court determined that continuing probation would "deprecate the serious [*sic*] of the offense and be inconsistent with the ends of justice." The trial court then revoked defendant's probation and sentenced him to seven years in the IDOC to be served at 50%, with credit for time served, with an additional one year of mandatory supervised release. The court further recommended defendant for controlled substances and/or alcohol abuse treatment in the IDOC. This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 On appeal, defendant argues that the trial court abused its discretion in sentencing him to the maximum seven years of imprisonment after his probation revocation. He contends that the trial court improperly considered his conduct while on probation and facts that were not in

evidence. Defendant claims that the trial court further abused its discretion by failing to consider mitigating factors and his rehabilitative potential. In making these arguments, the defendant acknowledges that he has forfeited review of his claims because he failed to contemporaneously object and raise the claims in his posttrial motion (see *People v. Enoch*, 122 Ill. 2d 176, 186 (1988)). However, he argues that we should review the issue under the first prong of the plain-error doctrine.

¶ 21 The plain-error rule is a narrow and limited exception to the general rule of forfeiture. *People v. Naylor*, 229 Ill. 2d 584, 593 (2008). Under the plain-error doctrine, a reviewing court will review an unpreserved error when a clear and obvious error occurs and (1) the evidence is so closely balanced that the error alone threatened to tip the scales of justice against defendant or (2) the alleged error is so serious that it affected the fairness of defendant's trial and challenged the integrity of the judicial process. *People v. Piatkowski*, 225 Ill. 2d 551, 564-65 (2007). The first step in the plain-error analysis under either prong is determining whether an error occurred. *Id.* at 565.

¶ 22 The Illinois Constitution provides sentences are to 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. "This constitutional mandate calls for balancing the retributive and rehabilitative purposes of punishment, and the process requires careful consideration of all factors in aggravation and mitigation." *People v. Daly*, 2014 IL App (4th) 140624, ¶ 26. Trial courts have broad discretionary powers in imposing sentences because, having observed the proceedings, trial courts are in the best position to "weigh such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

¶ 23 Therefore, where, as here, a sentence imposed by the trial court is within the statutory limits for the offense, we will generally not disturb the sentence absent an abuse of discretion by the court. *People v. McGee*, 2020 IL App (2d) 180998, ¶ 8. A sentence will be deemed excessive and the result of an abuse of discretion where it is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense. *Stacey*, 193 Ill. 2d at 210. Although a reviewing court has the power to reduce or alter a sentence, this power should be exercised cautiously and sparingly. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). The appellate court presumes that the trial court considered only appropriate factors in sentencing, unless the record affirmatively shows otherwise. *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002) (citing *People v. Lurks*, 241 Ill. App. 3d 819, 827 (1993)).

¶ 24 The Unified Code of Corrections sets out certain statutory factors in aggravation and mitigation that a trial court must consider when imposing a sentence of imprisonment. 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2022). In fashioning the appropriate sentence, the court must carefully consider all of the factors in aggravation and mitigation, and other factors, such as defendant's age, demeanor, habits, mentality, credibility, criminal history, general moral character, social environment, and education as well as the nature and circumstances of the crime and of defendant's conduct in the commission of the crime. *People v. Calhoun*, 404 Ill. App. 3d 362, 385 (2010). This determination must be based on the particular circumstances of the case. *People v. Brown*, 2015 IL App (1st) 130048, ¶ 41 (citing *People v. Fern*, 189 Ill. 2d 48, 53 (1999)). When resentencing a defendant after probation is revoked, the trial court can impose any sentence that was appropriate for the original offense. 730 ILCS 5/5-6-4(e) (West 2022).

¶ 25 A. Aggravating Factors

¶ 26 Defendant first claims that the trial court erred and abused its discretion during sentencing by punishing him for factors outside of the underlying offense. Specifically, he argues that the trial court improperly considered the convictions that led to the probation revocation and community issues without basis in fact or law. The State argues that no error occurred as the trial court may consider a defendant's actions on probation and deterrence as factors in sentencing.

¶ 27 We begin with the presumption that the trial court considered only appropriate factors in sentencing, unless the record affirmatively shows otherwise. *Quintana*, 332 Ill. App. 3d at 109. To that end, we consider the record of the sentencing hearing as a whole, rather than focusing on "a few words or statements" from the court. *People v. Brown*, 2019 IL App (5th) 160329, ¶ 18. When sentencing a defendant after a probation revocation, the trial court may consider defendant's conduct on probation in assessing his "history and character." *People v. Willett*, 44 Ill. App. 3d 545, 551 (1976). A trial court may also consider a defendant's conduct while on probation " 'in assessing the defendant's potential for rehabilitation.' " *People v. Pina*, 2019 IL App (4th) 170614, ¶ 30 (quoting *People v. Palmer*, 352 Ill. App. 3d 891, 895 (2004)). Additionally, the trial court may " 'give reasonable consideration to the need for deterrence as a factor in the imposition of a sentence.' " *People v. Cunningham*, 2018 IL App (4th) 150395, ¶ 27 (quoting *People v. Cameron*, 189 Ill. App. 3d 998, 1010 (1989)).

¶ 28 In support of defendant's argument that the trial court improperly considered factors beyond the underlying burglary charge, defendant relies on *People v. Gansz*, 2024 IL App (4th) 230243-U. In *Gansz*, the defendant entered into a plea agreement for a conditional discharge. *Id.* ¶¶ 6-7. The defendant then violated terms of the discharge by being charged with several new offenses. *Id.* At the resentencing hearing, the trial court stated that the "level of criminality that

has taken place" while the defendant was on conditional discharge was the "most disturbing" and "most aggravating" factor and justified a longer sentence. *Id.* ¶ 38. The appellate court found the trial court erred by using defendant's postplea actions as the primary factor during sentencing, holding that the trial court failed to properly consider the defendant's PSI, prior criminal history, and whether the underlying crime was violent. *Id.*

¶ 29 Unlike in *Gansz*, the record here does not support a conclusion that trial court improperly considered defendant's convictions while on probation as the primary factor in sentencing. The trial court made no comment about the nature of the convictions nor as to any weight given to the convictions. The trial court was given many factors to consider in evaluating whether the defendant was likely to comply with terms of any potential probation sentence. Among the factors were defendant's convictions, defendant's *ex parte* dispositions, his failures to appear in the instant case, and the nature of his criminal history, which included a violation of probation. We find no indication that any factor was improperly relied upon by the court. As the trial court did not abuse its discretion by improperly considering defendant's convictions while on probation, we find no error.

¶ 30 We also find no error in the trial court's consideration of deterrence as a factor in sentencing. Defendant here argues that the trial court's comment that it found deterrence to be "particularly compelling" in this matter shows that the trial court relied on the improper factor of societal harm. See *People v. Corn*, 358 Ill. App. 3d 825, 827 (2005). However, we do not look at single sentences but the record as a whole to determine if an improper factor was considered. *Brown*, 2019 IL App (5th) 160329, ¶ 18. In context, therefore, it is clear that the statement relates to the need for deterrence as a sentencing factor, a statutory factor that the court may reasonably consider in aggravation. 730 ILCS 5/5-5-3.2(a)(7) (West 2022); *Cunningham*, 2018 IL App (4th)

150395, ¶ 27. Therefore, we find that the court did not improperly consider societal harm in sentencing defendant and no error occurred.

¶ 31 B. Factors in Mitigation

¶ 32 Defendant next claims that the trial court abused its discretion by failing to consider defendant's rehabilitative potential as a mitigating factor during sentencing. Defendant argues that the trial court disregarded his history of mental illness and substance abuse, along with his willingness to submit to treatment, and that sentencing him to the maximum term shows that the trial court did not give those mitigating factors proper weight in its consideration. The State argues that the trial court explicitly considered both defendant's mental health struggles and his substance abuse during sentencing and that defendant's sentence was given with the goal of rehabilitation as evidenced by the trial court requiring defendant to receive substance abuse treatment from the IDOC.

¶ 33 While rehabilitative potential is a factor in sentencing, a sentencing judge is not required to give it greater weight than other factors, including the seriousness of the crime. *People v. Kendrick*, 2023 IL App (3d) 200127, ¶ 50. Further, "it is presumed that the trial court considered all mitigating factors, including rehabilitative potential, and the burden is upon the defendant to show the contrary." *People v. Connery*, 296 Ill. App. 3d 384, 391 (1998).

¶ 34 The defendant alleges that this matter is similar to *People v. Heider*, 231 Ill. 2d 1 (2008), and *People v. Brown*, 2015 IL App (1st) 130048. In *Heider*, a defendant with a severe intellectual disability was sentenced to 10 years' imprisonment for sexual relations with a 12-year-old when he was 19 years old. 231 Ill. 2d 1. During sentencing, the trial court stated that the defendant's intellectual disability made him unable "to control himself" and "that should terrify the public." *Id.* at 11. As such, the trial court sentenced the defendant to the maximum sentence of 10 years in

prison, beyond the State's recommended statutory minimum of 6 years. *Id.* On appeal, the Illinois Supreme Court determined that the defendant's prior history, which included only traffic violations, showed no indication that the defendant was dangerous in any way. *Id.* at 23. The supreme court then held that the sentence was excessive as the trial court improperly considered the defendant's disability as an aggravating factor. *Id.* at 24.

¶ 35 In *Brown*, the defendant was sentenced to 50 years in prison for attempted first degree murder when he was 16 years old. 2015 IL App (1st) 130048, ¶ 39. While firing at the victim, the defendant's gun allegedly jammed before the defendant fixed it and fired an additional two shots. *Id.* ¶ 44. During sentencing, the trial court noted that there were many mitigating factors in the defendant's favor but stressed that "but for that gun jamming, [the trial] would have been even more serious." *Id.* ¶ 22. On appeal, the court held that the sentence was excessive as the trial court had "considered uncertain speculative evidence" as an aggravating factor. *Id.* ¶ 44. The court further held that the sentence was excessive as it "does not satisfy the constitutional objective of restoring defendant to useful citizenship." *Id.* ¶ 45. The court named the defendant's youth, family support, the fact that he was in high school, and single adjudication of delinquency for residential burglary on his record as factors that indicated the defendant's potential for rehabilitation. *Id.*

¶ 36 Like *Heider*, defendant received the maximum sentence despite alleging mental illness as a mitigating factor in sentencing. However, this case is distinguished from both *Heider* and *Brown* in multiple ways. The defendant in this matter was not a teenager when he committed the underlying offense nor was it his first criminal conviction, both key factors indicating the defendants' rehabilitative potential in those cases. Indeed, the trial court in this matter declined to resentence defendant to probation as he had both an extensive criminal history and had violated his probation. Furthermore, the record shows that defendant's mental health issues were not

improperly treated as an aggravating factor, as they were in *Heider*. There is also no evidence that the trial court considered uncertain speculative evidence, as in *Brown*. Moreover, while defendant was sentenced to the maximum term of seven years imprisonment, the trial court ordered it would be served at 50%, and defendant has the opportunity to serve less time in the IDOC.

¶ 37 The defendant here essentially asks us to reweigh the evidence and factors and to arrive at a different sentencing determination. It is clear from the trial court's comments that it weighed and considered both the mitigating and aggravating factors, and we will not substitute our judgment for that of the trial court. Therefore, we find that the trial court did not abuse its discretion in sentencing the defendant within the applicable sentencing range, and thus, there was no error.

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we affirm defendant's convictions and sentences.

¶ 40 Affirmed.