

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).

2024 IL App (4th) 230373-U

NO. 4-23-0373

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
March 28, 2024
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Livingston County
ERIN C. ROFF,)	No. 21CF310
Defendant-Appellant.)	
)	Honorable
)	Jennifer H. Bauknecht,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Harris and Doherty concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion in sentencing defendant, as her four-year sentence was not excessive.

¶ 2 In April 2022, defendant, Erin C. Roff, pleaded guilty to possession of methamphetamine manufacturing material (720 ILCS 646/30(a) (West 2020)) and possession of methamphetamine precursor (720 ILCS 646/20(a)(1) (West 2020)). In January 2023, the trial court sentenced defendant to two concurrent terms of four years’ imprisonment. On appeal, defendant argues her four-year sentence is excessive and asks this court to reduce her sentence to a term of probation. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In October 2021, the State charged defendant by information with (1) participation in methamphetamine manufacturing, a Class 1 felony (720 ILCS 646/15(a)(1)

(West 2020)) (count I), (2) possession of methamphetamine manufacturing material, a Class 2 felony (720 ILCS 646/30(a) (West 2020)) (count II), and (3) possession of methamphetamine precursor, a Class 2 felony (720 ILCS 646/20(a)(1) (West 2020)) (count III). At the time, defendant was on first offender probation in Livingston County case No. 20-CF-226 after pleading guilty to possession of methamphetamine, a Class 3 felony (720 ILCS 646/60(a) (West 2020)). A petition to revoke her probation was filed in October 2021, alleging the new offense, which is the subject of this appeal, and polysubstance abuse. A second petition was filed in April 2022, alleging additional polysubstance abuse.

¶ 5 In April 2022, defendant entered an open guilty plea on counts II and III. The State agreed to dismiss count I. The trial court admonished defendant she faced a minimum of probation and a maximum of three to seven years' imprisonment for each Class 2 felony. In its factual basis, the State indicated a police investigator learned defendant and two codefendants were purchasing items commonly used in methamphetamine production from a hardware store. A search warrant executed at defendant's home revealed evidence of methamphetamine manufacturing. The court accepted defendant's guilty plea. Thereafter, the court ordered a presentence investigation report (PSI) and continued the matter for sentencing.

¶ 6 At the January 2023 sentencing hearing, the trial court admitted the PSI, dated July 2022, and the supplemental PSI, dated December 2022, without objection. The parties stipulated defendant's last five drug screens were negative for all substances. In mitigation, defendant submitted a letter verifying her ongoing outpatient treatment for substance abuse, a certificate of completion for inpatient treatment, and three character reference letters.

¶ 7 In laying out the circumstances of the offenses, the PSI indicated officers executed two search warrants on the residence of defendant and James Synowiecki, defendant's

paramour at the time—the first took place on September 2, 2020. The search uncovered evidence of drug usage in defendant’s bedroom. Defendant’s six-month-old daughter was found in a playpen in an adjoining bedroom. During her police interview, defendant admitted to using methamphetamine “heavily every day” for a few months prior, including ingesting methamphetamine “just prior to the arrival of the police.”

¶ 8 A second search warrant was executed on October 5, 2021, while defendant was on probation from charges arising from the first search warrant. Police found various items of drug paraphernalia and materials used in the production of methamphetamine throughout the home. When questioned, defendant said she had been “clean for some time.” Defendant eventually admitted to purchasing pseudoephedrine, lye, cold packs, and lithium batteries for a friend, Richard Hall, to produce methamphetamine. She also indicated she and Synowiecki occasionally allowed Hall to “cook” methamphetamine at their home in exchange for methamphetamine for their personal use. However, “[s]he denied that she had ever helped make the product, or sell it.”

¶ 9 During her presentence interview, defendant “explained that she did not commit the offense” and “maintains that, although she was in active methamphetamine addiction at the time of her arrest, the meth found in her possession belonged to [her codefendant].” Regarding the sentencing offense, defendant said she was a “ ‘mule’ ” for Hall, who was actually cooking the methamphetamine and she would receive free methamphetamine for her personal use by purchasing ingredients for him. Regarding the items for methamphetamine manufacturing found in her residence, defendant stated “ ‘[t]hey didn’t catch me with nothing but ingredients’ ” and maintained she was not wrong for owning “ ‘ordinary household items’ ” found in the house.

¶ 10 The PSI also detailed defendant's history of substance abuse. Defendant first consumed alcohol and cannabis at age 13. She described her alcohol consumption as daily and her cannabis use as " 'once every few days.' " Defendant tried cocaine when she was 16, which eventually progressed to the daily use of crack cocaine during 2012 and 2013. Her methamphetamine use began when she was 32, and she used it almost daily.

¶ 11 In 2013, defendant scheduled a substance abuse assessment, but she never attended. In 2019, she completed a driving under the influence evaluation. Defendant began counseling and outpatient treatment in January 2020, but she was unsuccessfully discharged due to lack of attendance. In early 2021, defendant made several appointments to obtain a substance abuse assessment, but she either canceled or failed to attend. Defendant was admitted into outpatient treatment in June 2021 but was unsuccessfully discharged that October due to inconsistent attendance and a lack of significant progress. In November 2021, she was readmitted into outpatient treatment and was referred to drug court shortly thereafter. However, defendant was again unsuccessfully discharged from outpatient treatment in February 2022. The referral for drug court was revoked after she failed to enter inpatient treatment and bailed Synowiecki out of jail after being ordered to cease contact with him. Defendant was given resources for inpatient treatment, but she did not pursue those services.

¶ 12 While on probation, defendant provided four negative drug tests, but three were too diluted and were considered tampered with. During the same period, defendant tested positive for drugs 18 times. Sometimes she admitted to using substances, but she denied using substances at 11 of her positive drug screens. The PSI noted "[respondent] frequently denied and minimized her substance use throughout the course of her probation. She struggled with

dishonesty.” Although defendant was noted to profess “a desire to change her life on a regular basis,” she did not take the necessary action to do so.

¶ 13 The supplemental PSI indicated defendant successfully completed inpatient treatment in August 2022 and was directed to start attending outpatient treatment. She initiated a substance abuse assessment in August but called to either reschedule or cancel her appointments. After calling to reschedule or cancel appointments four times, she eventually began outpatient treatment in October 2022, attending weekly group sessions and two monthly individual sessions. According to the supplemental PSI, after her release from inpatient treatment, defendant provided two clean drug screens before “returning to drinking.” She then provided two diluted screens, both of which still tested positive for alcohol. Defendant denied consuming alcohol until confronted with the lab results. She then admitted her continued consumption of alcohol.

¶ 14 The State recommended a four-year prison sentence. The State pointed to defendant’s “poor compliance” with her probation in case No. 20-CF-226, where she continued to use alcohol, diluted or tampered with her drug screens, and was dishonest with her probation officer. The State also noted defendant’s older age (she was 39 at the time of her offenses), that most of her criminal history occurred in the last few years, and her criminal conduct was escalating.

¶ 15 Defense counsel requested a sentence of probation. Counsel attributed defendant’s offenses to her struggles with addiction. Without being ordered to do so, defendant completed an inpatient program and was currently enrolled in an outpatient program. Counsel noted defendant’s record was not extensive and showed no history of violence or repeated theft-related crimes. While defendant initially provided positive drug screens for alcohol, her past five drug

screens were negative. Defendant also reconciled with her husband and began homeschooling her son.

¶ 16 In her statement in allocution, defendant acknowledged she made many mistakes in the past and accepted responsibility for them. Defendant claimed she was an addict in the past, but not anymore. She expressed a desire to move forward and to make a better life for herself and her family.

¶ 17 The trial court sentenced defendant to four years in prison on count II and four years in prison on count III, to run concurrently, followed by one year of mandatory supervised release. The court reminded defendant she was still an addict, despite being in remission. The court stated it took into consideration “[t]he seriousness of the offense, the statutory factors in aggravation and mitigation, [defendant’s] statement in allocution, rehabilitative potential, and a number of other factors.” The court noted defendant was on first offender probation when she committed the instant offenses. Because defendant did not engage in treatment until the few months preceding the sentencing hearing, the court did not find her recent compliance sincere. Additionally, the court expressed concern with defendant’s escalating criminal conduct. The court found a prison sentence was necessary for deterrence.

¶ 18 Thereafter, defendant filed a motion to reconsider her sentence, which the trial court denied.

¶ 19 This appeal followed.

¶ 20 II. ANALYSIS

¶ 21 On appeal, defendant argues the trial court abused its discretion in imposing her four-year sentence. Specifically, defendant argues the court overlooked or did not adequately consider mitigating factors.

¶ 22 “All 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 sentencing court must carefully consider all factors in aggravation and mitigation, including “the 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 it.” *People v. Center*, 198 Ill. App. 3d 1025, 1033, 556 N.E.2d 724, 729 (1990). “Nonetheless, the seriousness of the offense, rather than any mitigating evidence, is the most important factor in sentencing.” (Internal quotation marks omitted.) *People v. Wheeler*, 2019 IL App (4th) 160937, ¶ 38, 126 N.E.3d 787.

¶ 23 The trial court is not required to recite a detailed analysis of every mitigating factor it considered when rendering its sentencing decision. *People v. Quintana*, 332 Ill. App. 3d 96, 109, 772 N.E.2d 833, 845 (2002). “[I]f mitigating evidence is presented at the sentencing hearing, this court presumes that the trial court took that evidence into consideration, absent some contrary evidence.” (Internal quotation marks omitted.) *People v. Pina*, 2019 IL App (4th) 170614, ¶ 19, 143 N.E.3d 794. “[T]he reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed [the] factors differently.” *People v. Stacey*, 193 Ill. 2d 203, 209, 737 N.E.2d 626, 629 (2000).

¶ 24 We afford great deference to the trial court’s sentencing decision, as it is in the best position to observe the defendant and the proceedings. *Stacey*, 193 Ill. 2d at 209. As such, we review a sentence imposed by the trial court for an abuse of discretion. *Wheeler*, 2019 IL App (4th) 160937, ¶ 39. A trial court abuses its discretion only when its sentence “is greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.” *People v. Bien*, 277 Ill. App. 3d 744, 756, 661 N.E.2d 511, 520 (1996).

¶ 25 Defendant's four-year sentence was well within the statutory range prescribed by the legislature. The applicable sentencing range for each of defendant's offenses was three to seven years' imprisonment. See 730 ILCS 5/5-4.5-35(a) (West 2022). "A sentence imposed within the statutory range provided by the legislature is presumed to be proper." *People v. Sturgeon*, 2019 IL App (4th) 170035, ¶ 104, 126 N.E.3d 703 (citing *People v. Charleston*, 2018 IL App (1st) 161323, ¶ 16, 138 N.E.3d 743). Accordingly, we presume the sentence is proper and review it for an abuse of discretion.

¶ 26 The record demonstrates the trial court adequately considered the relevant factors in mitigation and aggravation before rendering its sentencing decision. The court explicitly stated it considered "[t]he seriousness of the offense, the statutory factors in aggravation and mitigation, [defendant's] statement in allocution, rehabilitative potential, and a number of other factors." The court also found a prison sentence was necessary for deterrence. See 730 ILCS 5/5-5-3.2(a)(7) (West 2022).

¶ 27 Defendant argues the trial court failed to consider her criminal history, the nature of her offenses, and her statement in allocution. See 730 ILCS 5/5-5-3.1(b) (West 2022). However, as noted above, the court expressly stated it considered the seriousness of the offense and defendant's statement in allocution. Furthermore, the court noted defendant was on first offender probation for possession of methamphetamine when she committed the instant offense and her criminal behavior was escalating to more serious conduct.

¶ 28 Defendant also asserts the trial court "did not mention" the hardship incarceration would have on her school-age child. See 730 ILCS 5/5-5-3.1(a)(18)(B), (C) (West 2022). However, this evidence was presented at the sentencing hearing through defense counsel and the PSI. As such, we presume the court considered this evidence "unless there is some indication,

other than the sentence imposed, to the contrary.” (Internal quotation marks omitted.) *People v. Weiser*, 2013 IL App (5th) 120055, ¶ 31, 993 N.E.2d 614. Defendant fails to point to anything in the record to affirmatively rebut this presumption. Accordingly, we presume the court considered any potential hardship on defendant’s family.

¶ 29 Finally, defendant contends the trial court did not adequately consider her rehabilitative potential. Again, as noted above, the court explicitly stated it considered defendant’s rehabilitative potential. The court further found defendant’s recent attempts at rehabilitation were insincere. In particular, the court noted defendant was on first offender probation when she committed the instant offense, continued to use drugs while on probation, and did not make serious attempts at rehabilitation until shortly before the sentencing hearing. Defendant essentially asks us to reweigh the mitigating factors on appeal, which we will not do. See *Stacey*, 193 Ill. 2d at 209.

¶ 30 In sum, the trial court did not abuse its discretion in sentencing defendant to four years’ imprisonment.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, we affirm the trial court’s judgment.

¶ 33 Affirmed.