2022 IL App (4th) 190901-U

NO. 4-19-0901

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
January 26, 2022
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Calhoun County
LYDIA B. HARTLE,	)	No. 16CF25
Defendant-Appellant.	)	
	)	Honorable
	)	Charles H.W. Burch,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Holder White and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding the trial court did not abuse its discretion when sentencing defendant to an extended term of nine years in the Illinois Department of Corrections.

¶ 2 In March 2019, a jury found defendant, Lydia B. Hartle, guilty of aggravated battery and further determined the State proved the additional statutory aggravating factor "that when the defendant committed the offense of Aggravated Battery, the [offense] was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty." A presentence investigation report (PSI) was ordered by the trial court, and defendant appeared for sentencing in June 2019. The trial court sentenced defendant to an extended-term sentence of nine years in the Illinois Department of Corrections (DOC) followed by one year of mandatory supervised release (MSR).

¶ 3 In July 2019, defendant filed a motion to reconsider the sentence, and the trial court held a hearing in December. Defendant argued her nine-year sentence was excessive, citing several reasons, including her advancing age and deteriorating mental health condition. The trial court denied the motion.

¶ 4 On appeal, defendant argues the trial court erred by imposing a nine-year sentence and by failing to give sufficient weight to mitigating circumstances, specifically, defendant's mental health, her lack of criminal history, her college education, and her service in the United States Navy. We disagree and affirm the trial court's judgment.

¶ 5 I. BACKGROUND

¶ 6 In 2016, the State charged defendant by information with one count of aggravated battery (720 ILCS 5/12-3.05(a)(1) (West 2016)), a Class 3 felony. Defendant faced penalties ranging from probation to imprisonment for two to five years. Based on reports of defendant's disruptive and bizarre behavior in the jail and based upon the trial court's observations of her in the courtroom (vacillating between being unresponsive and yelling profanities at the court), the trial court found there was a *bona fide* doubt as to her fitness to stand trial and ordered she undergo a fitness examination.

¶ 7 Dr. Terry M. Killian, M.D., interviewed defendant in her jail cell in December 2016. He provided a written report to the trial court and testified at the January 2017 fitness hearing. Dr. Killian diagnosed defendant with paranoid schizophrenia and opined defendant was unfit to stand trial. His written report included a volunteered opinion, "that it is my opinion, within a reasonable degree of psychiatric certainty, that [at] the time of assault on [the victim], [defendant] was suffering from the same symptoms from which she is currently suffering, which would have rendered her incapable of appreciating the criminality of her alleged conduct in any

reasonable fashion." At the fitness hearing, Dr. Killian testified defendant indicated to him, albeit indirectly, that she had previously been committed for inpatient mental health treatment. He testified defendant "is far too delusional and far too angry as a result of her perception that she is being persecuted to be able to think about any evidence that might be presented to her. Her insight is extremely poor[.]" Dr. Killian elaborated "that [defendant] is very, very clearly unfit to stand trial in that she is far too psychotic, far too delusional, far too agitated as a result of her current psychotic episode, severe psychotic episode to have any sort of reasonable understanding of the nature and purpose of the proceedings or to assist her *** attorney in her own defense in any kind of a rational fashion and absolutely unable to defend herself *pro se*." The trial court found defendant unfit to stand trial and ordered she be placed in the custody of the Illinois Department of Human Services for inpatient treatment, where she could be administered anti-psychotic medication.

¶ 8 Defendant remained unfit until October 2018. Months later, the State filed an amended information, where it added as an additional statutory aggravating factor that defendant acted brutally or with wanton cruelty (730 ILCS 5/5-5-3.2(b)(2) (West 2016)). The updated charges alleged defendant, "in committing a battery, in violation of Section 12-3 of Act 5 of Chapter 720 of the Illinois Compiled Statutes knowingly caused great bodily harm to Dana Jo Ruzicka by striking her about the head with a baseball bat, causing blunt trauma and open wounds, and that said offense was accompanied by exceptional brutal or heinous behavior indicative of wanton cruelty." The additional wanton-cruelty allegation made defendant eligible for an extended-term sentence of up to 10 years.

¶ 9 Immediately before commencing the jury trial, the trial court conducted a lengthy inquiry of both defendant and her counsel, as well as making an inquiry of the State with regard

to any questions concerning defendant's fitness to proceed. All parties agreed defendant's fitness was not an issue at that time. During the two day trial, the State presented testimony from several witnesses, including the victim. The defense presented testimony from defendant, and she claimed she acted in self-defense. The jury found defendant guilty of aggravated battery and determined the State proved the additional allegation that defendant acted with exceptional brutality indicative of wanton cruelty.

¶ 10 At the sentencing hearing in June 2019, the trial court confirmed receipt of the PSI and attachments. Per agreement by the parties, the court updated the PSI to reflect restitution for medical expenses in the amount $3155.75. There were no other additions, corrections, or deletions to the PSI. The victim read an impact statement detailing how her life and lifestyle changed following the battery. She noted the beating caused her to lose her left eye. The victim further detailed her mental and emotional injuries. Citing the harm defendant caused, the need for deterrence, protecting the public, and defendant's lack of accountability, the State argued for the maximum 10-year sentence in DOC.

¶ 11 Defense counsel's argument centered upon defendant's mental illness. Counsel directed the trial court's attention to Dr. Killian's 2016 opinion that defendant was likely criminally insane when she committed this offense. Counsel argued defendant needed mental health treatment, medication, therapy, and close monitoring, all of which could be done better in public than in DOC. Defense counsel noted defendant's strong family support. Finally, counsel noted defendant had already been incarcerated for 32 months. Counsel argued defendant had already been punished and asked the trial court to focus on her rehabilitation and mental health. Defendant declined to make a statement in allocution.

¶ 12 In pronouncing the sentence, the trial court noted it considered the PSI and the attachments thereto, the arguments from counsel, and the victim impact statement. The court first noted its sentencing options—imprisonment in DOC from 2 to 10 years followed by a 1-year term of MSR versus a term of probation or conditional discharge for up to 30 months. The trial court then found several mitigating factors, including: "defendant has no history of criminality or delinquency other than the pending charge"; "defendant was suffering from serious mental illness, which, *** substantially affected her ability to understand the nature of her acts or to conform her conduct to the requirements of the law"; and, finally, imprisonment in DOC might cause defendant's mental condition to deteriorate. Referencing the PSI, defendant's written statement attached to it, and her trial testimony, the trial court stated it was "troubled" because defendant "seem[s] to be devoid of any remorse for the harm she inflicted upon [the victim]." The court noted several aggravating factors, namely, the need to deter others, the nature of the offense (repeatedly striking the victim with a baseball bat), and the exceptionally brutal conduct. The trial court considered probation but determined: "in light of all the foregoing, the record in this case, the factors in mitigation balanced against factors in aggravation, I cannot do that. This crime is just too serious." The trial court sentenced defendant to an extended term—nine years of imprisonment in DOC served at 85% followed by one year of MSR. The trial court noted defendant had credit for 962 days served in presentence detention. The court ordered defendant to pay $3155.75 in restitution to the victim for unpaid medical bills.

¶ 13 Defendant filed a timely motion to reconsider the sentence, arguing the "sentence is excessive based on the totality of the circumstances." The motion argued the trial court did not fully consider "[d]efendant's mental state at the time of *** the crime," "her current mental disabilities for which she will not receive adequate treatment" in DOC, her "lack of criminal

history," her time served, or "other factors in mitigation as stated in the statute." Citing defendant's deteriorating mental health, her "very unstable" condition, and her transfer to Elgin Treatment Center for mental health services, the court and the parties agreed to delay a hearing on defendant's motion until she could be present.

¶ 14 In December 2019, the trial court heard arguments on the motion to reconsider the sentence. Defense counsel urged the court to reconsider the sentence, arguing "there was a substantial amount of provocation on the part of the victim." Defense counsel acknowledged the trial court previously considered defendant's mental health, but he asked "the court to again reconsider that incarceration is endangering [defendant's] medical condition, may be that's through her mental condition." Pointing to noticeable changes in defendant's appearance and behavior since trial, counsel argued defendant's "condition is, in fact, deteriorating." Defense counsel requested leniency since this is defendant's only crime and she "needs quality mental health care and assistance." The State countered by asking the court to consider all the evidence from trial. The State argued the victim did not provoke defendant and maintained defendant's mental condition was "being addressed by a facility the state specifically designed for that at Elgin and not at Logan." The State noted the trial court's prior sentencing decision "was exhaustive" and "extremely thorough" and argued "there's nothing that's been presented that should cause this court to have any reason to lower the sentence that's been previously imposed."

¶ 15 The trial court noted it reviewed defendant's motion, the factors in aggravation and mitigation, and the trial and sentencing transcripts. The trial court acknowledged it previously found that incarceration may exacerbate defendant's mental health condition. Similarly, the trial court observed it previously noted medication may help defendant but it could not know whether defendant would take medication as prescribed. Indeed, the PSI had detailed

defendant's refusal to take medication or participate in treatment. The trial court believed defendant could be a danger to society if she did not comply with mental health treatment. The trial court confirmed it considered defendant's lack of criminal history and her credit for time served. The trial court determined the evidence at trial did not provide a "credible explanation" that defendant acted under substantial provocation. Considering all the circumstances, the trial court denied defendant's motion to reconsider her sentence, finding the nine-year sentence was still appropriate.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 Defendant argues her nine-year sentence is excessive because the trial court failed to adequately consider mitigating evidence, namely her mental illness. Defendant also asks this court to either reduce her sentence to time served or remand for resentencing. For the following reasons, we disagree and decline to reduce the sentence.

¶ 19 The Illinois Constitution mandates "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. " 'In determining an appropriate sentence, a defendant's history, character, and rehabilitative potential, along with the seriousness of the offense, the need to protect society, and the need for deterrence and punishment, must be equally weighed.' " *People v. Hestand*, 362 Ill. App. 3d 272, 281, 838 N.E.2d 318, 326 (2005) (quoting *People v. Hernandez*, 319 Ill. App. 3d 520, 529, 745 N.E.2d 673, 681 (2001)). When the record shows mitigating factors were presented to a court, the reviewing court should presume that the trial court considered them. *People v. Pippen*, 324 Ill. App. 3d 649, 652, 756 N.E.2d 474, 477 (2001). However, " 'a defendant's rehabilitative potential and other mitigating factors are not

entitled to greater weight than the seriousness of the offense.' " *People v. Mendez*, 2013 IL App (4th) 110107, ¶ 38, 985 N.E.2d 1047 (quoting *People v. Shaw*, 351 Ill. App. 3d 1087, 1093-94, 815 N.E.2d 469, 474 (2004)). "The existence of mitigating factors does not require the trial court to reduce a sentence from the maximum allowed." *Pippen*, 324 Ill. App. 3d at 652 (citing *People v. Payne*, 294 Ill. App. 3d 254, 260, 689 N.E.2d 631, 635 (1998)).

¶ 20 A trial court enjoys broad discretion in imposing a sentence. *People v. Patterson*, 217 Ill. 2d 407, 448, 841 N.E.2d 889, 912 (2005). We pay "great deference" to a court's sentencing judgment " 'because the trial court is generally in a better position than the reviewing court to determine the appropriate sentence.' " *Hestand*, 362 Ill. App. 3d at 281 (quoting *People v. Stacey*, 193 Ill. 2d 203, 209, 737 N.E.2d 626, 629 (2000)). Absent an abuse of discretion, this court will not disturb a sentence upon review. See *People v. Hensley*, 354 Ill. App. 3d 224, 234, 819 N.E.2d 1274, 1284 (2004) (quoting *People v. Kennedy*, 336 Ill. App. 3d 425, 433, 782 N.E.2d 864, 871 (2002)). A trial court abuses its discretion "where the sentence is 'greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.' " *People v. Alexander*, 239 Ill. 2d 205, 212, 940 N.E.2d 1062, 1066 (2010) (quoting *Stacey*, 193 Ill. 2d at 210). Similarly, a court can abuse its discretion if its sentencing decision is "arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." *People v. Etherton*, 2017 IL App (5th) 140427, ¶ 26, 82 N.E.3d 693. When a sentence falls within the statutory range of possible sentences for a particular offense, we presume it to be reasonable and not arbitrary. *People v. Moore*, 41 Ill. App. 3d 3, 4, 353 N.E.2d 191, 192 (1976).

¶ 21 In this case, defendant was convicted of aggravated battery, a Class 3 felony, punishable by either a term of probation of up to 30 months or a term of imprisonment between

two and five years. 720 ILCS 5/12-3.05(a)(1), (h) (West 2016). Because the State alleged, and the jury found, defendant's offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty, defendant faced extended-term sentencing with a maximum of 10 years in DOC. 730 ILCS 5/5-5-3.2(b)(2) (West 2016). The trial court's nine-year sentence falls within the relevant sentencing range; consequently, we presume it is reasonable and will not disturb it absent an abuse of discretion. See *Moore*, 41 Ill. App. 3d at 4; see also *Hensley*, 354 Ill. App. 3d at 234.

¶ 22 The record before us reveals the trial court considered the appropriate statutory aggravating and mitigating factors before imposing a nine-year sentence. Based on the evidence before it, the court identified several factors in mitigation, namely: defendant's mental health at the time of the offense, defendant's lack of criminal history, and the fact that incarceration may cause defendant's mental health to deteriorate. Though it did not expressly recognize them on the record, the PSI noted other mitigating factors like defendant's college education and military service. Since the trial court stated it considered the PSI, we presume it considered those mitigating factors too. See *Pippen*, 324 Ill. App. 3d at 652 (stating we presume a sentencing court considered mitigating factors presented to it). The trial court also identified factors in aggravation, like the need for deterrence and the violent nature of defendant's crime.

¶ 23 Our review of the record reveals a thoughtful analysis of the relevant factors in aggravation and mitigation and their relationship to defendant's mental illness. The trial court, for example, noted defendant would be unlikely to engage in more criminal conduct if she complied with mental health treatment. However, the court also noted the PSI indicated defendant "would perhaps be unlikely or unwilling to take her prescribed medications of her own volition, and if she does not do that, or refuses to do that, I could well expect she would pose a

danger to others." The trial court acknowledged that defendant's mental state could deteriorate in DOC but balanced that possibility with the fact that other inmates are able to receive mental health treatment while incarcerated.

¶ 24 The record is bursting with evidence of defendant's mental illness and instability. We find the trial court was sufficiently cognizant of defendant's mental illness and her need for mental health treatment. The same judge presided over all but one of defendant's court appearances. The trial court witnessed firsthand defendant's profane outbursts and stubborn silence. The trial court observed the differences in defendant's appearance, demeanor, and behavior when she was medicated and when she was not. During pretrial fitness proceedings, the trial court received and reviewed substantial evidence documenting defendant's mental illness and her response to treatment. Since the trial court sat in the better position to assess defendant's mental health as a mitigating factor, having observed and interacted with her firsthand, we defer to its assessment. See *People v. Fern*, 189 Ill. 2d 48, 53, 723 N.E.2d 207, 209 (1999) ("A reviewing court gives great deference to the trial court's judgment regarding sentencing because the trial judge, having observed the defendant and the proceedings, has a far better opportunity to consider these factors than the reviewing court, which must rely on the 'cold' record.").

¶ 25 In the same vein, the record shows the trial court considered the other mitigating factors defendant raises again now, like her lack of criminal history and her status as a college graduate and Navy veteran. The court expressly found as a mitigating factor defendant's lack of criminal history. Yet finding this as a mitigating factor did not obligate the trial court to impose a lesser sentence, nor did it prevent the court from imposing the maximum sentence. See *Pippen*, 324 Ill. App. 3d at 652 ("The existence of mitigating factors does not require the trial court to reduce a sentence from the maximum allowed."). Through reading the PSI, the court was aware

of defendant's college degree and military service. Just because we might have weighed these mitigating factors differently, we cannot substitute our judgment for the trial court's. See *Stacey*, 193 Ill. 2d at 209 (instructing "the reviewing court must not substitute its judgment for that of the trial court" regarding sentencing factors "because the trial court is generally in a better position than the reviewing court to determine the appropriate sentence").

¶ 26 In again raising the same issue she raised in her motion for reconsideration of sentence—the trial court did not fully consider mitigating factors, especially underestimating her past and present mental illness—defendant effectively asks this court to reweigh the mitigating and aggravating factors and substitute a sentence different from the trial court's decision, which we cannot do. *People v. Coleman*, 166 Ill. 2d 247, 261-62, 652 N.E.2d 322, 329 (1995) (citing *People v. Pittman*, 93 Ill. 2d 169, 178, 442 N.E.2d 836, 840 (1982)). Defendant's sentence falls within the statutory range of possible sentences for aggravated battery accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty, and there is nothing in the record to suggest the trial court's sentencing decision was fanciful, arbitrary, unreasonable, or manifestly disproportionate to the nature of the offense. *Etherton*, 2017 IL App (5th) 140427, ¶ 26. Accordingly, we conclude the nine-year sentence imposed on defendant by the trial court was not " 'greatly at variance with the spirit and purpose of the law,' " nor was it " 'manifestly disproportionate to the nature of the offense.' " *Alexander*, 239 Ill. 2d at 212 (quoting *Stacey*, 193 Ill. 2d at 210). Thus, the court did not abuse its discretion in sentencing defendant to nine years in DOC.

¶ 27 III. CONCLUSION

¶ 28 For the reasons stated, we affirm the trial court's judgment.

¶ 29 Affirmed.