

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) 231081-U

NO. 4-23-1081

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 23, 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
EDWARD D. ABRAMS,)	No. 21CF391
Defendant-Appellant.)	
)	Honorable
)	Jennifer Hartmann Bauknecht,
)	Judge Presiding.

PRESIDING JUSTICE CAVANAGH delivered the judgment of the court.
Justices Harris and Lannerd concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding the trial court did not abuse its discretion when sentencing defendant to 20 years’ imprisonment.

¶ 2 In January 2023, defendant, Edward D. Abrams, was found guilty by a jury of aggravated battery (720 ILCS 5/12-3.05(d)(4)(1) (West 2018)). Defendant was sentenced to 20 years’ imprisonment. On appeal, defendant argues the trial court abused its discretion when imposing his 20-year sentence because (1) it was disproportionate to the seriousness of the offense and (2) the court failed to adequately consider his mental illness as a mitigating factor. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In December 2021, defendant was charged by indictment with aggravated battery for knowingly making physical contact of an insulting or provoking nature with Correctional

Officer Corey Marek. In February 2022, defendant appeared in-person before the trial court because he had refused to leave his cell at a prior hearing. When asked if he wanted an attorney appointed to represent him, defendant stated he did not know what an attorney was. The court inquired if defendant was being treated for a mental health issue, to which defendant replied, “Kind of.” The court appointed counsel to represent defendant.

¶ 5 In August 2022, defendant appeared via video but refused to sit in front of the camera. A correctional officer noted that defendant had left the room. The trial court concluded defendant had chosen not to attend the hearing and proceeded with defendant’s counsel present. Counsel informed the court defendant wanted to appear in person rather than by video and had demanded a jury trial.

¶ 6 On December 7, 2022, the parties answered ready for trial. Prior to the trial beginning, defendant uttered an explicative, and a correctional officer noted, “He’s got a needle or something. He’s digging into his skin here.” The trial court recessed the proceedings so officers could take the contraband away from defendant. At that time, defendant stated, “I told you all I was suicidal.” Upon leaving, defendant stated, “I’m not going back out there,” referring to the courtroom. When defendant was returned, officers noted he had another needle. Defendant then stated, “You all trying to give me lethal injection.” He also stated he was going to kill himself. Defendant was again removed from the courtroom. The court noted it had spoken with the warden from Statesville Correctional Center, who indicated defendant had been classified as severely mentally ill. The court stated defendant was refusing to come back to the courtroom. Defense counsel explained she had met with defendant that morning and explained the jury trial process. Defendant responded he did not understand. Counsel stated she did not believe he did not understand what she meant. Counsel stated she spoke with defendant by phone on four

previous occasions and did not have reason to believe he was unfit to stand trial. Counsel stated she explained the difference between fitness to stand trial and having a mental health issue to defendant on at least two occasions. She informed the court she believed defendant was acting out to avoid his trial.

¶ 7 Defendant was brought back into the courtroom in a wheelchair. It was noted that he had in his mouth a piece of metal, which he refused to surrender. Defendant continued to interrupt the proceedings, stating he did not want the death penalty and threatening to kill himself. Ultimately, the trial court offered defendant a continuance, which he accepted.

¶ 8 On January 10, 2023, defendant appeared again for his jury trial. He stated he was not ready and was suicidal. The trial court noted it had spoken with the warden, who informed the court defendant had stated his previous actions were a calculated effort because he believed he was being treated unfairly. Defendant was offered an opportunity to change out of his prison jumpsuit into street clothes. He initially refused and stood in his underwear for 20 minutes before changing his clothes. Defense counsel informed the court defendant had refused a plea agreement for 12 years' imprisonment. Defendant interrupted that counsel never discussed a plea offer with him. However, defendant also stated he was not accepting the State's plea offer.

¶ 9 The matter proceeded to a jury trial, with Marek testifying that, on March 27, 2019, he was escorting defendant to his cell when defendant threw his head back and struck Marek in the face. Marek began bleeding. Video evidence of the incident was played for the jury. Defendant did not testify and presented no evidence.

¶ 10 The jury found defendant guilty of aggravated battery.

¶ 11 A sentencing hearing was held in August 2023. Defense counsel informed the trial court the previous sentencing hearing was continued to provide defendant an opportunity to

participate in the presentence investigation report (PSI). Defendant refused to complete a written questionnaire and believed he was entitled to an in-person interview. The PSI noted defendant was also offered an opportunity to participate remotely in an interview, but it was discontinued after 15 minutes. Neither party presented any further evidence. The State recommended a term of 16 years in prison, while defendant requested the minimum term of 6 years.

¶ 12 Defendant gave a statement in allocution wherein he argued his due process rights had been violated and he had received ineffective assistance of counsel. First, he argued his trial was conducted on January 10, 2023, but he was informed it was supposed to occur on January 13, 2023. He contended his due process rights were violated because he was threatened with being removed from court for exercising his freedom of speech. He argued the State failed to disclose exculpatory information, the trial court failed to instruct the jury he was presumed innocent, and he was not provided a fair opportunity to present evidence in his defense. He also argued he was forced to wear prison clothes rather than street clothes and cited a court case. He stated probation never interviewed him for the PSI, which was now being used in his sentencing. He noted he has “mental issues” which were never addressed, and he takes “psychotropic medication.” He maintained his innocence and demanded an appeal.

¶ 13 The trial court entered a judgment of conviction for aggravated battery. The court noted defendant was subject to mandatory Class X sentencing, with a range of 6 to 30 years’ imprisonment, based on his prior criminal history. The court further noted it had considered the statutory aggravating and mitigating factors, the seriousness of the offense, “information received,” testimony from the trial, defendant’s statement in allocution, the fact defendant’s actions cause physical harm, and the cost of incarceration. The court found defendant’s criminal history was a “very strong factor in aggravation,” stating defendant had “237 offenses in

approximately a 6- to 7-year time period and found guilty of 227 of those.” The court also found deterrence to be a strong factor in aggravation and that defendant was a danger to the public. Regarding mitigating factors, the court stated, “I do not see any mitigating factors present in this case; I really don’t see any strong mitigating factors.” The court sentenced defendant to 20 years’ imprisonment.

¶ 14 Defendant filed a motion to reconsider his sentence, arguing his sentence was excessive and the trial court failed to consider his mental illness as a mitigating factor. The court noted it had “obviously considered” defendant’s mental health but did not considered it to “rise[] to the level of being a strong mitigating factor.” The court denied defendant’s motion.

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 On appeal, defendant argues the trial court abused its discretion when imposing his 20-year sentence because (1) it was disproportionate to the seriousness of the offense and (2) the court failed to consider his mental illness as a mitigating factor.

¶ 18 “The legislature sets forth by statute the range of permissible sentences for each class of criminal offense.” *People v. Fern*, 189 Ill. 2d 48, 53 (1999). “A sentence within statutory limits will not be deemed excessive and an abuse of the court’s discretion unless it is ‘greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.’ ” *People v. Pina*, 2019 IL App (4th) 170614, ¶ 20 (quoting *Fern*, 189 Ill. 2d at 54). A reviewing court affords great deference to a trial court’s sentencing judgment because, “having observed the defendant and the proceedings, [it] is in a far better position to consider such factors as the defendant’s credibility, demeanor, general moral character, mentality, social environment, and habits than a reviewing court, which must rely on a ‘cold’ record.” *People v. Little*, 2011 IL

App (4th) 090787, ¶ 24. A sentence that falls within the applicable statutory limits is reviewed for an abuse of discretion. *People v. Price*, 2011 IL App (4th) 100311, ¶ 36.

¶ 19 Here, defendant was found guilty of aggravated battery, a Class 2 felony. 720 ILCS 5/11-3.05(d)(4)(i), (h) (West 2018). Ordinarily, under the Unified Code of Corrections, this conviction would subject a defendant to a term of imprisonment of not less than 3 years and not more than 7 years in prison, and in the case of an extended-term sentence, not more than 14 years' imprisonment. 720 ILCS 5/5-4.5-35(a) (West 2018). However, due to defendant's criminal history, he was subject to a mandatory Class X sentence of not less than 6 years and not more than 30 years in prison. 730 ILCS 5/5-4.5-25(a), 5-4.5-95 (West 2022). Defendant was sentenced to a term of 20 years' imprisonment. Because defendant's sentence was within the permissible range, we begin with the presumption the sentence was proper. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46.

¶ 20 Defendant first contends the circumstances of his conviction do not warrant a sentence in the upper half of the Class X sentencing range. Defendant notes his striking of Correctional Officer Marek with the back of his head caused Marek to bleed, but it did not incapacitate Marek, who was immediately able to assist another officer in placing him on the ground. Marek's injury did not require hospitalization, stitches, or any intensive medical care. Additionally, one trial exhibit showed only a drop of blood on Marek's right hand. While defendant concedes his conduct was serious, he claims it was not so serious as to warrant a 20-year sentence. See *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002) (noting the seriousness of the offense is the most important sentencing factor). We disagree.

¶ 21 The abuse of discretion standard is deferential to trial courts, and "[o]ur mere disagreement with the [sentencing] court's decision would not make the decision an abuse of

discretion.” *People v. Fisher*, 407 Ill. App. 3d 585, 589 (2011). In this case, the court noted not only defendant’s significant criminal history, but also deterrence and his dangerousness to the public were factors in aggravation. Defendant concedes he has 5 prior felony convictions, along with findings of guilty in 227 offenses while incarcerated. Defendant’s PSI shows multiple convictions for aggravated battery to a peace officer, which all support his long-standing history of violent conduct toward law enforcement. Ultimately, the court was in a better position to observe defendant’s conduct and weigh the need for a harsher sentence. Therefore, we find the court did not abuse its discretion when sentencing defendant to 20 years’ imprisonment.

¶ 22 Defendant next contends the sentencing court failed to consider his mental illness when fashioning his sentence. Although the court indicated it had considered defendant’s mental illness, defendant argues his sentence does not reflect the court adequately weighed this mitigating factor. Defendant requests this court find his sentence excessive and exercise our powers under Illinois Supreme Court Rule 615(b)(4) (eff. Jan. 1, 1967) to reduce his sentence or, alternatively, vacate his sentence and remand for a new sentencing hearing. We decline to do so.

¶ 23 The trial court is not required to recite each factor it considers when sentencing a defendant. *People v. McDonald*, 322 Ill. App. 3d 244, 251 (2001). Where mitigating evidence is before the court, it is presumed the court considered it. *Id.* Additionally, “that presumption will not be overcome without explicit evidence from the record that the *** court did not consider mitigating factors.” *People v. Flores*, 404 Ill. App. 3d 155, 158 (2010).

¶ 24 Here, the trial court clearly considered defendant’s mental illness when imposing his sentence. This mitigating factor does not outweigh the various aggravating factors the court noted in its decision. A trial court is not required to afford greater weight to mitigating factors than to the severity of the offense. *People v. Alexander*, 239 Ill. 2d 205, 214 (2010). Nor does the

presence of mitigating factors require a minimum sentence. *People v. Jones*, 2014 IL App (1st) 120927, ¶ 55. Therefore, we find the court did not abuse its discretion in its consideration of defendant's mental illness when it imposed a 20-year sentence.

¶ 25

III. CONCLUSION

¶ 26

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

¶ 27

Affirmed.