THIRD DIVISION
June 15, 2016

No. 1-13-3573

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 2951
	)	
LYNN CRENSHAW,	)	Honorable
	)	Diane Gordon Cannon,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Mason and Justice Fitzgerald Smith concurred in the judgment.

O R D E R

¶ 1 *Held*: Judgment affirmed over defendant's challenge to the sufficiency of the evidence to sustain her conviction for second degree murder; defendant's 18-year sentence affirmed where it is within the sentencing range for the offense, and the record shows the trial court gave proper consideration to all of the factors in aggravation and mitigation.

¶ 2 Following a bench trial, defendant Lynn Crenshaw was found guilty of second degree murder and sentenced to 18 years in the Illinois Department of Corrections. On appeal, defendant contests the sufficiency of the evidence to sustain her conviction and maintains that it should be reduced to involuntary manslaughter. Defendant argues that the State did not prove, beyond a

reasonable doubt, that she intentionally or knowingly killed her boyfriend, Brian Hawkins. Defendant also contends that her sentence is excessive in light of mitigating factors. For the reasons that follow, we affirm.

¶ 3 Defendant's conviction arose from the stabbing death of the victim on January 11, 2012. That night, a group of people gathered at a studio apartment in Chicago: the victim; defendant; defendant's friend, Larry Davis; defendant's friend, Frederick Nelson; Nelson's son, Danny Enriquez; Enriquez's girlfriend, Desiree Webster; and Webster's infant son. At trial, Davis, Nelson, and Webster testified to the events surrounding the victim's death, which occurred at the apartment. As a result of the victim's death, defendant was arrested and charged with two counts of first degree murder.

¶ 4 At trial, Davis testified that all the adults were drinking on the night in question. Around 10 p.m., he was in the kitchen area of the apartment when defendant and the victim started arguing. Defendant called the victim "bitch" and "ho." The victim walked over to defendant and asked what her problem was. Defendant stood there cursing at him, and continued arguing more loudly. When she "stepped up on [the victim] close," he put his hands up to stop her, but did not make contact. Davis testified, "The next thing I know his head went up went back and he fell down." The victim made a sighing noise, but Enriquez caught the victim before he hit the ground. Defendant went down at the same time as the victim. While on the floor, defendant dropped a knife from her right hand and told the victim to "quit playing." Nelson called 911.

¶ 5 On cross-examination, Davis confirmed that he had been drinking an assortment of liquors and beer since noon that day. He did not see the stabbing or anyone remove a knife from the kitchen. He recalled that the victim's shirt was undone but not ripped, and described the

wound as a balloon next to the victim's navel. Although defendant and the victim went down at the same time, defendant had kneeled to the ground rather than falling. While kneeling next to the victim, she said, "This is serious," and told Davis to get a towel. Davis denied telling the police that he was passed-out in the bathroom during the stabbing.

¶ 6 Nelson testified that on the night in question, he was standing in the kitchen area when he heard defendant call the victim "bitches ho's, and motherfuckers" and yell, "[Y]ou need to mind your own motherfucking business." The victim walked over to defendant, told her to stop calling him names and said, "[P]lease don't disrespect me in front of them because I won't disrespect you." Defendant got up, said "bitch motherfucker" and started poking the victim in the head. The victim put his hands up as if to "push away from" defendant. Nelson was talking in the kitchen and not paying close attention. He heard the victim make a gasping sound, and went into the living room with Enriquez. The victim was standing next to defendant and looking up at the ceiling. He fell backwards into Enriquez' hand. Defendant was holding a knife and had some blood on her hand. Nelson said he was going to call 911, but defendant responded, "[D]on't call 911 yet." He waited about ten minutes to call 911.

¶ 7 On cross-examination, Nelson denied telling an officer that defendant and the victim had wrestled that night. He confirmed that he testified before the grand jury that defendant was touching the victim's forehead with her finger and then the victim "pushed up off of, you know, and she came back smacking him upside the head." Nelson further confirmed that defendant knelt to the ground and was crying when she said "this is serious."

¶ 8 Desiree Webster testified that around 10:15 p.m., the victim and defendant, a woman who outweighed the victims by 85 pounds, were in the middle of the living room arguing about

money for the victim's bus fare home. Webster and her son were on the bed against a wall in the living room. After 15-25 minutes of the verbal arguing, defendant shoved the victim. He took a step back and then pushed her into a chair by the kitchen area. She got up and "lunged" at the victim, who hit the wall behind him, made a gurgling sound and looked up at the ceiling. Webster left the apartment with her baby. She did not see defendant or the victim with a knife.

¶ 9 On cross-examination, Webster testified that she was paying attention to her son during the lunge and, at first, she did not know what had happened. After the victim hit the wall, defendant told the victim to "quit playing."

¶ 10 Chicago police forensic investigator Paul Presnell testified that he responded to Nelson's apartment in the early morning hours of January 12, 2012. He gathered and inventoried evidence including bloody towels from the bathroom and a knife from the kitchen sink, and photographed the area. He also photographed defendant at the hospital and took pictures of her right finger after she received the stitches.

¶ 11 It was stipulated that DNA profiles of defendant and the victim were found on blood from the knife. It was further stipulated that the autopsy showed the victim died of a single stab wound to the mid-upper abdomen. The wound was three inches deep and its opening measured 0.7 by 0.3 inches. The victim's blood alcohol level was 0.303 at the time of death, and he was 5' 9" and weighed 163 pounds.

¶ 12 The State rested, and defendant's motion for acquittal was denied. Defendant proceeded by stipulation. It was stipulated that the victim was convicted of home invasion and aggravated criminal sexual assault under case number "194CR-2284001, on June, 29, 1885 [sic]." It was further stipulated that on the night of the stabbing, Davis told the police that he was passed-out in

the bathroom due to alcohol consumption during the incident. It was also stipulated that, on the night in question, Nelson told police that defendant and the victim wrestled with each other.

¶ 13 After argument, the court found that defendant was not merely reckless in that she accidentally cut someone while swinging a knife around. Rather, defendant drove the knife into victim with such force that she cut her right index finger in the process. The court stated:

> "That is first degree murder.
>
> Having found that, the court will look to whether or not at the time of the killing you were under any type of sudden, intense passion and it's a stretch to find that being called names by your boyfriend ignited such a passion in you that you stabbed him. I will find that only because you, the witnesses and everyone had not only been friends but had been spent a lovely day together, albeit a drunken one.
>
> Finding of guilty of second degree murder."

¶ 14 The court denied defendant's motion for a new trial.

¶ 15 At the sentencing hearing, the State read a victim impact statement from the victim's younger brother, Timothy Hawkins. Timothy explained that the victim helped care for his family in any way he could, and would pick up medications for their mother, take on additional work to provide for his son, and would answer Timothy's questions when he had them. All three of them had experienced difficulties dealing with the victim's passing, and it sometimes made him cry. Other times, his fond memories of the victim brought a smile to his face. He believed defendant needed a long time to consider that she had taken a life. On behalf of his family, he asked the court to impose the maximum sentence stating, "She took away my mother's son, she took away

my nephew's father, and she took away my big brother." The State introduced defendant's two misdemeanor convictions for theft in 1997 in aggravation. The State requested the maximum sentence of 20 years.

¶ 16 In mitigation, counsel argued that defendant had done fairly well in life. She frequently transitioned to jobs with increasingly better pay, and she had been employed in the healthcare field as a certified nurse's assistant. Defendant had some college experience but no degree. Although defendant had to put some things aside because she "suffered from a debilitating illness, it's basically cancer," she still assisted her mother in caring for her elderly grandfather. Counsel stated that defendant had tried to revive the victim and that she did not want him to die. Counsel then argued that the circumstances were not likely to recur.

¶ 17 In allocution, defendant stated:

> "Yes, I just would like to say that this is a tragic accident in my life. I never meant to hurt anybody. I'm mourning the death of [the victim]. I still grieve for him every day, and I just – I sit with God every day with my Bible, and I had to go to God to keep me strong. I have sat and sat with this now for almost two years, and my heart and soul really goes out to his family, and I'm very sorry for this incident."

¶ 18 Before announcing sentence, the court stated:

> "All right. [Defendant], I appreciate the fact that you're sorry for what you did, but let's be clear, this is not an accident, okay?
>
> An accident is dropping something. An accident is not going into the kitchen, getting a knife, going into -- back into the living room and shoving it in

someone's stomach, okay? That's second degree murder. This is not an accident by any means.

And you weren't raised on the streets. You weren't raised by wolves. You had parents who supported you. You had an education. You had everything going for you, and with that brain, with that support, you killed a man. So I don't see how your intelligence plays into any mitigating factor here.

There's so many people who step before me who have never had chance. You had an education. You have parents. You have a family supporting you.

THE DEFENDANT: Yes, I do.

THE COURT: And you're out there drinking and you kill your boyfriend. This is not an accident, ma'am. This is second degree murder.

Taking everything statutorily, factors in aggravation and mitigation into consideration, your lack of criminal history, that was the only reason you are not sentenced to the maximum."

¶ 19 The court then sentenced defendant to 18 years in the Illinois Department of Corrections and three years of mandatory supervised release.

¶ 20 Defendant filed a motion to reconsider her sentence arguing that she was entitled to the minimum sentence in light of her work history, remorse, lack of criminal background, and rehabilitative potential. Defendant further maintained that her crime was the spontaneous reaction to a fight with the victim who had a prior conviction for aggravated sexual assault. The court denied the motion stating:

"All right. The evidence was that she stabbed her boyfriend so hard in the stomach while he was unarmed, half her size, that she cut her hand. She thrust the knife into his stomach, he fell, and died.

Did he have some last gasp of air? Yes. It is not like he laid down and went to sleep. She stabbed him with such force that he died. She was the initial aggressor. He was unarmed. Again, half her size and her boyfriend.

The Court considered her background, her criminal history, her social history, everything else in aggravation and mitigation at the sentencing hearing. Your motion to reconsider is respectfully denied."

¶ 21 On appeal, defendant first contests the sufficiency of the evidence to sustain her conviction for second degree murder, arguing that because the State did not prove that she intentionally or knowingly killed the victim, her conviction should be reduced to involuntary manslaughter. In a challenge to the sufficiency of the evidence, the relevant inquiry is 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. *People v. Woods*, 214 Ill. 2d 455, 470 (2005). In a bench trial, the trial court determines the credibility of the witnesses, weighs the evidence, draws reasonable inferences, and resolves any conflicts in the evidence. *People v. Daheya*, 2013 IL App (1st) 122333, ¶ 62. Accordingly, we allow all reasonable inferences from the record in favor of the prosecution and may not overturn defendant's conviction unless the proof is so improbable or unsatisfactory that a reasonable doubt exists as to her guilt. *People v. Cardamone*, 232 Ill. 2d 504, 511 (2009); *People v. Williams*, 193 Ill. 2d 306, 338 (2000).

¶ 22 The offenses of first and second degree murder share the same elements; they both require the State to prove that a defendant: (1) intended to cause death or great bodily harm; or (2) knew that her conduct created a strong probability of death or great bodily harm. 720 ILCS 5/9-1(a) (West 2012). If these elements are satisfied, the lesser offense of second degree murder is available if a mitigating factor, such as serious provocation or an unreasonable belief in justification, is present. 720 ILCS 5/9-2 *et seq.* (West 2012); *People v. Lengyel*, 2015 IL App (1st) 131022, ¶ 40. In contrast, the offense of involuntary manslaughter occurs when a defendant's reckless acts are likely to cause death or great bodily harm. 720 ILCS 5/9–3(a) (West 2012).

¶ 23 Thus, the determination of whether a defendant's conduct constitutes murder or involuntary manslaughter turns on the distinction between the mental states of knowledge or intent and recklessness. *People v. DiVincenzo*, 183 Ill. 2d 239, 249 (1998). A defendant acts intentionally when she possesses the conscious objective or purpose to accomplish a result, and knowingly when she is consciously aware that her conduct is practically certain to cause the prohibited result. 720 ILCS 5/4–4, 4–5(b) (West 2012); *Lengyel*, 2015 IL App (1st) 131022, ¶ 45. Recklessness requires the conscious disregard of a "substantial and unjustifiable risk that circumstances exist or that a result will follow." 720 ILCS 5/4–6 (West 2012); *Lengyel*, 2015 IL App (1st) 131022, ¶ 45. Therefore, to sustain defendant's conviction for knowing second degree murder, the State was required to prove, beyond a reasonable doubt, that she was consciously aware that her conduct was practically certain to cause death or great bodily harm. 720 ILCS 5/9-2 *et seq.* (West 2012). Whether a defendant is guilty of murder or involuntary manslaughter is ordinarily a question for the trier of fact. *DiVincenzo*, 183 Ill. 2d at 253.

¶ 24 The finder of fact may rely on certain non-exhaustive factors in determining whether conduct is knowing or reckless, such as: (1) the disparity in the size or strength of the victim and defendant; (2) the length and brutality of the conduct, and the severity of the resulting injury; and (3) whether a defendant used a weapon, such as a gun or a knife as opposed to bare fists. *Id.* at 251; see also *People v. Luna*, 409 Ill. App. 3d 45, 49 (2011) (finding the defendant's conduct in intentionally swinging a knife in the victim's direction, even if it was over his shoulder, unequivocally demonstrated sufficient intent to preclude a jury instruction on recklessness).

¶ 25 As noted above, defendant maintains that the State did not prove, beyond a reasonable doubt, that she intentionally or knowingly caused the victim great bodily harm. The State responds that defendant's superior size compared to victim, her unilateral escalation of the verbal argument into a physical encounter, and her deliberate and forceful stabbing support the trial court's conclusion that defendant acted with the mental state required for second degree murder.

¶ 26 We agree with the State. The record in this case shows, in relevant part, that defendant, who, according to the presentence investigation (PSI) report was 6' 1" and 248 pounds, was verbally insulting the victim, who was physically smaller at 5' 9" and 163 pounds. Defendant chose to escalate the encounter into a physical altercation by initiating physical contact. With a deadly weapon, defendant inflicted a single injury so severe that it alone caused the victim's death. She drove the knife into the victim with sufficient force to cause a three-inch deep wound, and, in the process, cut her finger severely enough to need stitches. Drawn in a light most favorable to the State, the reasonable inferences arising from the defendant's verbal harassment, her conduct in elevating the encounter to a physical altercation, the weapon she used, the depth and severity of the fatal wound, and the cut defendant sustained, support the trial court's finding

of guilt. Accordingly, the evidence was sufficient to prove beyond a reasonable doubt that defendant was substantially certain her conduct with the knife during a physical altercation would cause great death or bodily harm.

¶ 27 Defendant nevertheless maintains that, at most, her conduct was reckless where the victim lunged at her before she stabbed him, the cut on her finger could as easily have resulted if the victim fell on her, and defendant's conduct after the stabbing suggests that the severity of the situation surprised her. We reject defendant's arguments. When weighing the evidence, the court was not required to disregard the inferences that naturally flow from the facts, nor did it have to consider every possible explanation consistent with innocence. *People v. Bull*, 185 Ill. 2d 179, 205 (1998). Although Webster testified that the victim pushed defendant, the evidence undisputedly shows that defendant initiated the physical nature of the fight. Furthermore, the court was not required to accept defendant's speculative, innocent explanation for the cut on her finger. Nor was the court required to conclude that defendant's subsequent remorse outweighed the contrary evidence of intent. Here, as set forth above, the reasonable inferences, drawn from the evidence in light most favorable to the State, support the determination of the trial court that defendant's conduct was intentional or knowing and not merely reckless.

¶ 28 Defendant next challenges the sufficiency of the evidence in light of certain inconsistencies between the interviews the police conducted of Davis and Nelson on the night of the murder, and their testimony at trial. However, inconsistencies and discrepancies in the testimony are matters within the province of the trier of fact, and were resolved here against defendant. *Reed*, 80 Ill. App. 3d at 781-82. In light of the superior position of the trial court to evaluate matters of credibility, we do not find that the alleged inconsistencies render the

evidence so improbable as to raise a reasonable doubt of defendant's guilt. We therefore affirm the judgment of the circuit court Cook County finding defendant guilty of the offense of second degree murder.

¶ 29 Defendant's second contention on appeal is that the trial court erred in imposing the 18-year sentence. Defendant contends that the court failed to balance the seriousness of the offense with the mitigating evidence of her employment and education history, her remorse, lack of a significant criminal history, and evidence of her rehabilitative potential. Additionally, defendant characterizes her conduct in committing the murder as a reaction to a fight and maintains that it was "nothing more than a drunken lapse in judgment" influenced by a day of heavy drinking.

¶ 30 Trial courts have broad discretion in imposing an appropriate sentence, and when the sentence falls within the prescribed statutory limits, it will not be disturbed unless it is greatly at variance with the purpose and spirit of the law or is manifestly disproportionate to the offense. *People v. Jones*, 168 Ill. 2d 367, 373-74 (1995); *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). The trial court's superior position to weigh factors such as the defendant's credibility, demeanor, general moral character, mentality, social environment, and age mandates that a reviewing court refrain from reweighing those factors and substituting its opinion for that of the trial court. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

¶ 31 In this case, defendant was sentenced to 18 years' imprisonment for her conviction for second degree murder, which was subject to a sentencing range of 4 to 20 years. 730 ILCS 5/5-4.5-30(a) (West 2012). The court expressly stated that it considered the factors in mitigation and aggravation and then declined to impose the maximum sentence in light of defendant's lack of a significant criminal history. Furthermore, the trial court is presumed to have considered the

evidence contained in the record (*People v. Anderson*, 325 Ill. App. 3d 624, 637 (2001)) and the court need not detail precisely for the record the process by which it determines a sentence (*People v. Evans*, 373 Ill. App. 3d 948, 968 (2007)). The record here reflects that the mitigating evidence was presented to the court in the PSI and in defense counsel's argument at sentencing. The court found additional aggravating evidence in that defendant was out drinking, initiated the aggression, and then stabbed her unarmed boyfriend with such force that the single wound killed him, but, that he did not die instantly. Based on this record, we find no abuse of discretion by the trial court in sentencing defendant to a term of 18 years, which is within the statutory range.

¶ 32 Similarly, defendant's rehabilitative potential does not entitle her to a lower sentence. Although a sentence must strike a proper balance between the protection of society and the rehabilitation of defendant, the trial court is not required to give defendant's rehabilitative potential more weight than the seriousness of the offense. *Anderson*, 325 Ill. App. 3d at 637. Furthermore, the mere existence of mitigating evidence does not entitle a defendant to a specific sentence, and in the absence of an affirmative showing to the contrary, we may not substitute our judgment for that of a trial court and re-weigh the evidence. *People v. Flores*, 404 Ill. App. 3d 155, 158 (2010).

¶ 33 Defendant next maintains that the court failed to acknowledge her remorse. In allocution, defendant characterized her crime as a "tragic accident" and said she was "sorry for this incident." Contrary to defendant's contention, the record reflects that the court did consider her remorse, explicitly stating, "I appreciate the fact that you're sorry for what you did." However, the court noted that defendant mistakenly characterized her conduct in murdering the victim as accidental. In considering defendant's statements in allocution, the court was entitled to disagree

with defendant's characterization of her crime as accidental and determine the appropriate weight to give her expression of remorse. We reject defendant's claim that the court failed to consider her remorse simply because she disagrees with the inference the court drew from her remarks. In light of the trial court's superior position to assess witness credibility, we find no abuse of discretion in the court's comment on a proper sentencing consideration.

¶ 34 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 35 Affirmed.