

No. 1-14-3430

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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. 11 CR 3125
)	
JEFFERY BELL,)	Honorable
)	Anna Helen Demacopoulos,
Defendant-Appellant.)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.
Presiding Justice Hyman and Justice Pierce concurred in the judgment.

O R D E R

¶ 1 *Held:* Defendant’s combined term of 100 years’ imprisonment for murder is affirmed.

¶ 2 Following a jury trial, defendant, Jeffery Bell, was convicted of first degree murder (720 ILCS 5/9-1(a)(1) (West 2010)). Bell argues that (1) the firearm sentence enhancement statute applied to his sentence is unconstitutionally vague on its face; and (2) the trial court abused its discretion in imposing a combined sentence of 100 years’ imprisonment. We affirm.

¶ 3 The State charged Bell by indictment with 107 counts, including, *inter alia*, the first degree murder of Marquette Campbell (720 ILCS 5/9-1(a)(1)-(3) (West 2010)). The counts in the

indictment generally alleged that, during the early hours of December 19, 2010, Bell shot Jonathan McClain and Marquetta Campbell, resulting in the death of Campbell.

¶ 4 In June 2014, the matter proceeded to a jury trial. Before jury selection, the State nolle prossed all counts except eight counts of first degree murder.

¶ 5 The evidence established that Bell's fiancée, Camille Brodanex, fought with Campbell at a night club in the early hours of December 19. After the club closed, Bell found Campbell and her friends in a strip-mall restaurant where they had gone to eat. Bell entered the restaurant and began arguing with Campbell. He told Campbell that he had "some goons on the way up there to whoop her ass." As Bell backed out of the restaurant, he lifted his shirt to reveal a gun, pointed at Campbell, and said "bitch, I'm going to lay you down tonight."

¶ 6 Brodanex arrived with others and was outside the window of the restaurant. Brodanex and Bell began yelling at Campbell through the glass, telling her to come outside. Campbell and her friends left the restaurant, coming face to face with Bell's group. Bell was heard saying "get that bitch" right before Brodanex jumped through the crowd and stabbed Campbell in the chest. Campbell's friends determined she had been stabbed and began helping her toward their cars to take her to the hospital. At this point, Bell fired a gun several times and everyone scattered. A bullet struck Campbell in the head and caused her death. Several witnesses observed Bell firing the gun. A surveillance camera from a pawnshop in the strip mall captured the events in the parking lot. The surveillance video showed the initial confrontation outside the restaurant, Bell firing a gun, and Campbell falling to the ground.

¶ 7 Bell fled the scene. He had another girlfriend, Tyanna Cooper, whose apartment he visited in the early morning hours after the shooting. He left, came back with a gun, and asked

Cooper to keep it for him. When she refused, Bell left again and came back once more. He eventually left in a car with Brodanex and another woman. Cooper called the police after Bell's second and third visits. Police stopped a car that matched the description of the car carrying Bell and the two women with whom he was travelling. Officers found Bell hiding in the back seat, wearing the same button-down shirt he had been reported to be wearing that night.

¶ 8 While in a cell at the police station, Bell attempted to get rid of his shirt by hiding it under a mattress. An officer noticed Bell's change in appearance and asked him where his shirt was. Bell denied he had been wearing another shirt. When the officer found it under the mattress, Bell stated, "Oh, that shirt." Later that day, the police executed a search warrant on Cooper's apartment and found a box of 12 .45-caliber bullets.

¶ 9 In the immediate aftermath of the shooting, the police found four .45-caliber bullet casings in the southwest part of the parking lot. A bullet fragment was also discovered inside the pawnshop. A "spent projectile" was found embedded in the strip mall's southwest sign a week later. Two additional .45-caliber casings were discovered near the sign three months later. Ballistics testimony at trial established that two of the metal bullet fragments and one lead portion were not suitable for testing. The testimony also established that the two bullet jackets were consistent with a .45-caliber bullet and were fired from the same gun and that the six casings were fired from the same .45-caliber gun. The medical examiner performed an autopsy on Campbell and concluded that the cause of Campbell's death was the gunshot wound to her head. The medical examiner also concluded that the stab wound did not cause Campbell's death and would not have been life-threatening.

¶ 10 At the conclusion of the trial, the jury found Bell guilty of four counts of first degree murder, also finding that he personally discharged a firearm resulting in the death of another person. The court denied Bell's motion for a new trial and the matter was set for sentencing. Bell's presentence investigation report (PSI) reflected that he was 21 years old at the time of the offense. He reported that he had a good relationship with his parents and was one of 12 children. Bell was single and had a six-year-old son. He attended special education classes in high school and dropped out after his sophomore year. He reported a work history that consisted of a part-time job with the Chicago Heights Park District. Bell's criminal history included a 2006 felony conviction for robbery with a firearm, for which he had been sentenced to eight years' imprisonment. Bell was serving a period of mandatory supervised release at the time of Campbell's murder.

¶ 11 At Bell's sentencing hearing, Italy Marino, Campbell's cousin, read a victim impact statement on behalf of the deceased's family; Demetrice Staten, Bell's mother, testified on his behalf; and Bell gave a brief statement in allocution in which he apologized for Campbell's family's loss, but insisted that he was innocent.

¶ 12 The State asked the court to sentence Bell to 100 years' imprisonment. The prosecution argued that Bell's offense was aggravated by the fact that he acted without provocation when he killed Campbell and that he put others at risk of serious bodily harm by firing into the crowd in the parking lot. The State noted Bell's conviction for armed robbery with a firearm four years before Campbell's murder. The State also emphasized that the unprovoked and senseless nature of the crime necessitated sending a message to deter others.

¶ 13 Defense counsel asked the court to sentence Bell to the minimum of 45 years' imprisonment. He noted Bell's youth and the fact that a minimum sentence would keep him in jail until he was 66 years old. He acknowledged that Bell had been on parole for a crime he committed when "he was much younger" and stated that Bell "[d]idn't have really enough time to get his life on track." Counsel argued that a sentence above the minimum offered no additional safety to society. Finally, he argued that anything more than the minimum would be "effectively a life sentence."

¶ 14 The trial judge stated she had taken all the factors in aggravation and mitigation into consideration. In mitigation, the court noted Bell's young age and that he was 21 years old at the time of the offense. In aggravation, the court emphasized Bell was unprovoked and had "taunted the victim throughout the entire night." The court further noted Bell's statement that he was going to "get his goons" and "he was going to lay her down bitch demonstrate[d] the character of Mr. Bell" and the premeditated nature of the murder. The court also considered the harm caused to an already-injured Campbell who was being dragged to safety by her friends after being stabbed by Brodanex. Lastly, the court noted Bell's prior felony conviction involving a firearm and the fact that, "less than thirteen months [after being released,] he [was] back out on the street with another loaded weapon."

¶ 15 The trial court merged the convictions of murder and sentenced Bell to a combined term of 100 years' imprisonment: 55 years' imprisonment for first degree murder and a consecutive 45-year firearm enhancement. Bell filed a motion to reconsider his sentence, arguing that his "sentence [was] excessive in light of [his] background and the nature of his participation in the offense" and that the sentence was "improperly disparate compared to the 23-year sentence

imposed upon [Brodanex],” his co-defendant. The court denied Bell’s motion to reconsider his sentence. This appeal timely followed.

¶ 16 On appeal, Bell argues: (1) the 25-to-life firearm enhancement statute is unconstitutionally vague and (2) his sentence was excessive. We first address Bell’s challenge to his sentence given that a ruling in his favor on this issue would render unnecessary resolution of the constitutional issue he raises. *People v. Moseley*, 2015 IL 115872, ¶ 11 (courts should decide constitutional questions only as necessary to the resolution of the issues on appeal).

¶ 17 Bell first argues that the trial court abused its discretion because his combined sentence of 100 years’ imprisonment was excessive. Specifically, he argues his sentence did not account for his youth, serves no penological interest, and is grossly disproportionate to the 23-year sentence received by Brodanex.

¶ 18 We review a trial court’s sentencing decision for an abuse of discretion as the trial court, having observed the defendant and the proceedings, is better suited to weigh sentencing factors than the reviewing court. *People v. Fern*, 189 Ill. 2d 48, 53 (1999). A sentence within statutory limits will not be deemed an abuse of discretion unless it is at variance with the spirit and purposes of the law or manifestly disproportionate to the nature of the offense. *People v. Stacey*, 193 Ill. 2d 203, 210 (2000).

¶ 19 A trial court may consider a number of factors to fashion an appropriate sentence, including the nature of the crime, protection of the public, deterrence, punishment, and defendant’s age, rehabilitative prospects, credibility, demeanor, and character. *People v. Kolzow*, 301 Ill. App. 3d 1, 8 (1998); see also 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2010) (providing various statutory factors in aggravation and mitigation). The weight attributed to the relevant

factors in aggravation or mitigation depends on the particular circumstances of each case. *Kolzow*, 301 Ill. App. 3d at 8. Importantly, it is the seriousness of the crime, rather than the presence of mitigating factors, that is the most important factor in determining an appropriate sentence. *People v. Quintana*, 332 Ill. App. 3d 96, 109 (2002). We will not substitute our judgment for that of the trial court because we may have balanced the factors differently. *People v. Alexander*, 239 Ill. 2d 205, 213 (2010).

¶ 20 The sentencing range applicable to Bell's offenses was 45 years to life. 730 ILCS 5/5-4.5-20(a) (West 2010) (20- to 60-year sentencing range for first degree murder); 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2010) (25-year to natural life add-on if defendant personally discharges a firearm that proximately causes death). Here, Bell's actual sentences of 55 years' imprisonment for first degree murder and 45-years for the mandatory firearm enhancement were within the statutory sentencing range and are, therefore, presumed proper. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46.

¶ 21 In addition, we recognize the trial court's consideration of the required factors in aggravation and mitigation in fashioning Bell's sentence. In mitigation, the trial court noted "that when he committed this offense he was *** twenty-one years of age." In aggravation, the court considered the unprovoked and premeditated nature of Bell's offense, the harm suffered by Campbell and her friends, and the fact that Bell had been out of prison less than 13 months for a 2006 armed robbery conviction involving a gun. It also noted the need for deterrence in preventing others from committing the same crime.

¶ 22 In challenging his sentence as excessive, Bell invokes the relatively recent line of U.S. Supreme Court cases addressing the constitutionality of certain sentencing schemes as applied to

juveniles. See *Roper v. Simmons*, 543 U.S. 551 (2005) (finding it unconstitutional to impose capital punishment for crimes committed while under the age of 18), *Graham v. Florida*, 560 U.S. 48 (2010) (life imprisonment without the possibility of parole for juveniles in nonhomicide offenses found unconstitutional), *Miller v. Alabama*, 567 U.S. 460 (2012) (mandatory life in prison without the possibility of parole for juvenile offenders violates eighth amendment). This line of cases does not apply directly to Bell as he was not a juvenile at the time he committed this offense and his sentence was discretionary not mandatory.

¶ 23 Bell also notes that *Miller*'s rationale has been extended to apply to discretionary *de facto* life sentences for juveniles. In *Montgomery v. Louisiana*, 577 U.S. ___, 136 S. Ct. 718 (2016), the Supreme Court clarified and expounded on *Miller*. As this court stated in *People v. Nieto*, “[p]rior to *Montgomery*, courts in this state understood *Miller* as prohibiting no more than mandatory life-sentences without parole for juveniles.” 2016 IL App (1st) 121604, ¶ 45. But following *Mongtomery*, trial courts “must consider a juvenile’s special characteristics even when exercising discretion.” *Id.* ¶ 49. See also *People v. Reyes*, 2016 IL 119271 (16-year-old defendant at time of offense entitled to new sentencing hearing following *de facto* life sentence without possibility of parole). Thus, again in cases involving juveniles, cases have been remanded so that trial courts could more closely examine the attributes of youth in fashioning a sentence.

¶ 24 As an adult, Bell is not entitled to the considerations afforded to juveniles under *Miller* and its progeny. Further, he did not receive a mandatory sentence and was not merely accountable for the actions of another, but was the deliberate perpetrator of Campbell’s murder. Bell's conduct in (i) telling Campbell that he intended to “lay her down” that night, (ii) shooting

Campbell in the face as she was being dragged to safety after being stabbed by his girlfriend and (iii) continuing to proclaim his innocence in light of the overwhelming evidence of his guilt, including video footage of the murder, are serious aggravating factors that the trial court was entitled to weigh heavily in fashioning an appropriate sentence. The further fact that Bell was on mandatory supervised release for another gun offense at the time he murdered Campbell strongly supports the trial judge's exercise of discretion. While Bell did receive a *de facto* life sentence (100 years imprisonment, to be served at 100%), he is an adult and there is no statute, rule or guidance from our supreme court that adults are entitled to require sentencing courts to consider the "traits associated with adolescence" in imposing a discretionary sentence otherwise within the permissible range. So while drawing the line at 18 for purposes of distinguishing between juveniles and mature adults may appear somewhat arbitrary (*Roper*, 543 U.S. at 574 ("The qualities that distinguish juveniles from adults do not disappear when an individual turns 18.")), "a line must be drawn" (*id.*) and 18 is the line the legislature has chosen.

¶ 25 Bell's further attempt to compare his sentence to the 23-year sentence of his co-defendant Brodanex similarly fails. Our supreme court has held that "[a]n arbitrary and unreasonable disparity between the sentences of codefendants who are similarly situated, of course, cannot be defended." *People v. Godinez*, 91 Ill. 2d 47, 55 (1982). But such disparity will not be deemed an abuse of discretion if supported by differences in the nature and extent of their respective participation in the offense. *Id.* Bell and Brodanex were tried before different judges. Brodanex did not pull the trigger, was acquitted of any gun-related charges and did not inflict a life-threatening wound. While Bell urged Brodanex to stab Campbell, there is no evidence that Brodanex urged Bell to shoot Campbell once she had been stabbed. Brodanex was also not on

mandatory supervised release for a gun offense at the time Campbell was murdered. Thus, Brodanex and Bell are not similarly situated, despite the fact that their respective charges both arose out of Campbell's murder.

¶ 26 Finding no basis to disturb Bell's sentences as excessive, we next consider Bell's argument that the firearm sentencing enhancement statute is unconstitutionally vague on its face, as it has a broad range of sentencing options and the statute fails to provide judges with guidance for deciding where on the spectrum a sentence should fall. The State argues, and Bell concedes, that this court has previously held that the statute is not unconstitutionally vague. See *People v. Sharp*, 2015 IL App (1st) 130438, ¶ 141; *People v. Butler*, 2013 IL App (1st) 120923, ¶ 41; *People v. Thompson*, 2013 IL App (1st) 113105, ¶¶ 119-21 (following *Butler*). However, Bell argues we have misinterpreted the statute in our prior cases.

¶ 27 A challenge to a statute's constitutionality may be raised at any time and is reviewed *de novo*. *People v. McCarty*, 223 Ill. 2d 109, 135 (2006). Statutes carry a strong presumption of constitutionality, and the party challenging the constitutionality of a statute bears the burden of rebutting this presumption. *Russell v. Department of Natural Resources*, 183 Ill. 2d 434, 441 (1998).

¶ 28 A criminal statute must meet two basic criteria to avoid being stricken as vague: first, "the statute's prohibitions are sufficiently definite, when measured by common understanding and practices, to give a person of ordinary intelligence fair warning as to what conduct is prohibited" (*People v. Sharpe*, 216 Ill. 2d 481, 527 (2005)); second, "the statute [must] provide[] sufficiently definite standards for law enforcement officers and triers of fact that its application does not depend merely on their private conceptions." *Id.* In other words, a criminal statute

“must adequately define the criminal offense in such a manner that does not encourage arbitrary and discriminatory enforcement.” *City of Chicago v. Morales*, 177 Ill. 2d 440, 449 (1997). Bell’s argument challenging the firearm sentencing statute is limited to the second criterion.

¶ 29 The firearm enhancement statute provides, in pertinent part:

“[I]f, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.” 730 ILCS 5/5-8-1-(a)(1)(d)(iii) (West 2010).

¶ 30 Bell asserts his argument here is distinguishable from the vagueness challenges this court has previously rejected, as *Butler* “did not resolve the question presented here—whether the [statute], once triggered, is unconstitutionally vague for failing to provide the objective standards necessary to avoid arbitrary and discriminatory sentencing.”

¶ 31 We disagree that this matter is distinct from *Butler*, in which we rejected the identical argument:

“[T]he standards for imposing the sentence enhancement are clearly defined. The sentence enhancement must be imposed when a defendant commits first-degree murder and discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death. Depending on the injury caused by the firearm used by the defendant, the trial court has discretion to impose a sentence in the range of 25-years-to-life. This allows the trial court to engage in fact-based determinations based on the unique circumstances of each

case. The wide range of the sentence enhancement is appropriate because it is impossible to predict every type of situation that may fall under the purview of the statute. By defining the types of injuries that trigger the sentence enhancement, the legislature has provided the trier of fact with guidelines to apply when determining what sentence to impose within the boundaries of the statute. Therefore, the scope and standards of the 25-years-to-life sentence enhancement are not vague.” *Butler*, 2013 IL App (1st) 120923, ¶ 41.

We agree with rationale of *Butler*, *Thompson* and *Sharp*. Therefore, we find the firearm enhancement statute is not unconstitutionally vague.

¶ 32 Yet Bell also argues that the trial court cannot use the same aggravating factors to first fashion the base sentence for first degree murder, then use them again to justify an additional extended term under the firearm enhancement statute. Specifically, in his case, Bell asserts that the trial court improperly considered the same factors in aggravation when sentencing him for murder as it did in sentencing him for proximately causing the death of another with a firearm. For each sentence, “the judge noted [defendant’s] youth, but cited his prior conviction, his parole status, and evidence of his character in aggravation, as well as deterrence.”

¶ 33 As we noted in *Butler*, our supreme court held that the firearm enhancement was not a double enhancement in *People v. Sharpe*, 216 Ill. 2d 481 (2005). *Butler*, 2013 IL App (1st) 120923, ¶ 43 (citing *Sharpe*, 216 Ill. 2d at 530). *Sharpe* held:

“[T]he general rule against double enhancement is merely a rule of construction established by this court, which arises from the presumption that the legislature considered the factors inherent in the offense in setting the initial penalty for that

offense. [Citation.] But where the legislature has made clear an intention to enhance the penalty for a crime, even in a way which might constitute double-enhancement, this court will not overrule the legislature.” *Sharpe*, 216 Ill. 2d at 530.

¶ 34 In light of the foregoing, there was no double enhancement in Bell’s sentences for murder and proximately causing the death of another by discharging a firearm, as the legislature intended such crimes to fall outside the bounds of the double-enhancement prohibition. *Butler*, 2013 IL App (1st) 120923, ¶ 43 (citing *Sharpe*, 216 Ill. 2d at 530).

¶ 35 The judgment of the circuit court of Cook County is affirmed.

¶ 36 Affirmed.