2018 IL App (4th) 160068-U

NO. 4-16-0068

FILED
May 11, 2018
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
WAYNE D. LARGENT,	)	No. 15CF632
Defendant-Appellant.	)	
	)	Honorable
	)	Thomas J. Difanis,
	)	Judge Presiding.

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

ORDER

¶ 1 *Held*: The appellate court affirmed, finding the trial court did not err in sentencing defendant to 30 years in prison for the crime of causing a catastrophe.

¶ 2 In September 2015, a jury found defendant, Wayne D. Largent, guilty of causing a catastrophe. The trial court sentenced him to 30 years in prison.

¶ 3 On appeal, defendant argues his 30-year sentence should be reduced as manifestly disproportionate to the nature of the offense. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In the early morning hours of April 26, 2015, the building housing the Ludlow community building and police department was destroyed by fire. In May and August 2015, the State charged defendant by information with single counts of arson (count I) (720 ILCS 5/20-1(a) (West 2014)), criminal damage to government supported property (count II) (720 ILCS

5/21-1.01(a)(2) (West 2014)), causing a catastrophe (count III) (720 ILCS 5/29D-15.1 (West 2014)), attempt (obstructing justice) (count IV) (720 ILCS 5/8-4(a), 31-4(a) (West 2014)), and retail theft with a prior theft conviction (count V) (720 ILCS 5/16-25(a)(1), (f)(1) (West 2014)).

¶ 6 Defendant's jury trial commenced in September 2015, and the State elected to proceed solely on count III, which alleged defendant committed the offense of causing a catastrophe in that he knowingly, by explosion or fire, caused substantial damage to a vital public facility, the Ludlow community building and police department, a facility necessary to ensure public health, safety, or welfare, seriously impairing its usefulness or operation.

¶ 7 Brett Sellers testified he was 23 years old and had a prior felony conviction for aggravated fleeing and eluding as well as pending charges for battery, resisting a peace officer, and aggravated battery to a peace officer. Sellers became acquainted with defendant during their employment together. About a week before the fire, defendant stated his desire to steal items from a Walmart. While in the Champaign Walmart, defendant picked up "a few five gallon buckets," a "wench" [*sic*], "two bags of dog food," and "possibly some random clothing items." Once Sellers realized defendant intended to steal the items, Sellers "split" because he wanted "nothing to do with it." After Sellers left, defendant caught up to him in the parking lot, and Sellers helped him load the items into the truck. Later, defendant mentioned using grain silos to hide stolen items, and Sellers stated the Walmart items were put into one of the silos.

¶ 8 On April 25, 2015, Sellers had a conversation with defendant about the stolen items in the silo. Defendant stated the merchandise had been taken by the police and he wanted to get it back so the police would not be able to obtain his fingerprints. Defendant also mentioned he had a vendetta against a "Ludlow cop" and intended to burn down the police station.

¶ 9 Rodney Loschen testified he owns grain silos near Ludlow that ordinarily "should be empty." On April 25, 2015, police officers contacted him and asked if he had a padlock on one of the silos. Loschen stated he did not and gave officers permission to look inside.

¶ 10 After receiving Loschen's consent to search in the early morning hours of April 25, 2015, Champaign County Sheriff's Deputy Susan Foster testified she entered the silo and found "two large bags of dog food," five-gallon buckets, a pair of sunglasses, a cowboy hat, and two baseball hats. Although she was unaware of a connection between the items and the Walmart retail theft, she seized the items as evidence of a possible criminal trespass.

¶ 11 Steven Largent, defendant's father, testified defendant called him on the afternoon of April 25, 2015, and wanted to retrieve a five-gallon gas can from him. Largent stated it was okay to take it, and defendant showed up five minutes later, picked it up, and then left.

¶ 12 Jarred Lancaster testified he had a prior felony conviction for the offense of arson. Along with being a lifelong friend of defendant, Lancaster knew Jose Navarro, the Ludlow chief of police. In late April 2015, defendant lived with Lancaster. At some point, Lancaster became aware of vehicles traveling near the silos and called Navarro. On April 25, 2015, defendant said some stolen items he stored in the silo were gone and had been taken by the police. Defendant expressed his desire "to get the stuff back before the police knew that he was involved with it." Defendant believed Navarro had the items at the Ludlow police department. He also mentioned security cameras around the police department, as well as his desire to retrieve the evidence. In the afternoon, defendant went to his father's house to pick up a gas can and he and Lancaster went to buy gas. Later, Lancaster had a discussion with Navarro because Lancaster "was scared something was going to happen with the [p]olice [s]tation." Lancaster stated he and defendant "hung out" during the evening before Lancaster called Navarro to tell him defendant was asleep.

Lancaster then fell asleep. When he awoke between 12:30 and 1 a.m. on April 26, 2015, defendant was gone. Lancaster went back to sleep and awoke at 2 a.m. when Navarro arrived at his house.

¶ 13 Navarro testified the Ludlow police department is located in the community center, which is a brick building that also houses the mayor's office, the township office, and a community room. The police department contained an evidence locker, desk, computer, and files. On April 24, 2015, Navarro received a call from Lancaster about seeing vehicles at the silos. In the early morning hours of April 25, 2015, Navarro took part in recovering the property from a silo. Lancaster later called to report defendant was afraid because the items had been recovered. Navarro decided to conduct surveillance of the police department and community building. After several hours, and after receiving word from Lancaster that defendant was sleeping, Navarro left to get something to eat. On the way to Rantoul, he observed defendant's truck parked where Navarro had seen it earlier. When Navarro returned, the truck was gone. He then returned to his original surveillance position. At approximately 2:26 a.m., Navarro "noticed a human figure walking along the back of the building" before setting "something down in front of the double doors." Navarro exited his vehicle, put on his vest, and heard glass breaking. The male figure then entered the building through a window. Navarro started to approach the building but stopped when he noticed somebody open the double glass doors and pick up the item previously set outside. Navarro continued walking until he saw "a very bright flash" through the windows, followed by a "yellow glow." The individual fled the building, and Navarro gave chase. After losing sight of the individual, Navarro returned to the police department to find it was "totally engulfed in flames." Navarro stated the fire caused the roof to

fall in and the doors and windows were burnt away or smashed. He also stated nothing was "salvageable" in the police department and "everything was just completely gone."

¶ 14 After calling the fire department, Navarro gave out a description of defendant's truck. He then went to check on Lancaster at approximately 4 a.m. Navarro stated Lancaster looked "like he had just woken up."

¶ 15 Champaign County Sheriff's Deputy Jason Moore testified he arrived at the scene of the fire and was directed to be on the lookout for a red Ford truck. Shortly thereafter, Moore executed a traffic stop of defendant's truck. Once defendant exited the vehicle, Moore saw "significant burns" to defendant's hands and arms, "singed hair on his head," and ripped jeans with burns on his legs. Defendant was then transported to the hospital.

¶ 16 Champaign County Sheriff's Deputy Jonathon Rieches testified he participated in the traffic stop of defendant's vehicle. Once defendant exited, Rieches noticed defendant's skin "hanging" on his hands. At the hospital, Rieches smelled a "significant" odor of gasoline.

¶ 17 Champaign County Sheriff's Deputy Brandon Reifsteck testified he provided security for defendant while he was in the hospital for his injuries. On April 28, 2015, defendant told Reifsteck he had received his burns while attending a bonfire in Fisher.

¶ 18 Terry Ooms, an arson investigator with the Illinois State Fire Marshal, testified his investigation indicated the fire started in the interior of the building and was aided by an accelerant. Ooms also stated defendant's burns were consistent with flash burns sustained in an accelerant-assisted fire and not from being burned in a bonfire. James Riggins, a forensic scientist with the Illinois State Police, testified defendant's blue jeans and fire debris from inside the police department tested positive for the presence of gasoline.

¶ 19 Defendant did not testify or present any evidence in his own defense. Following closing arguments, the jury found defendant guilty. In October 2015, defendant filed a motion for acquittal or, in the alternative, a motion for a new trial, which the trial court denied.

¶ 20 In November 2015, the trial court conducted the sentencing hearing. The presentence report indicated defendant had three convictions for battery, two convictions for criminal damage to property, and single convictions for theft, retail theft, and aggravated unlawful use of a weapon. The State recommended a sentence of 25 years in prison. In his statement in allocution, defendant "deeply" regretted what happened and planned on taking courses in prison to "better" himself.

¶ 21 The trial court stated it considered the presentence report, the arguments of counsel, defendant's comments, and the statutory factors in aggravation and mitigation. As mitigating factors, the court noted defendant was 28 years old, "has had some employment history," and completed a 12-hour anger-management course. As aggravating factors, the court noted defendant's prior criminal history and the need to deter others. The court stated "the deterrent factor has to come across loudly and clearly, not just for [defendant] but for other individuals similarly situated who think fire is an appropriate remedy for whatever problems they believe they are confronting." Calling it an "incredibly senseless offense" and the "attempted murder of a small town," the court sentenced defendant to 30 years in prison.

¶ 22 In December 2015, defendant filed a motion to reconsider his sentence, which the trial court denied. This appeal followed.

¶ 23 II. ANALYSIS

¶ 24 A. *Voir Dire*

¶ 25 In its initial brief, the office of the State Appellate Defender (appellate defender) argued the trial court committed reversible error in its inquiries to prospective jurors pursuant to Illinois Supreme Court Rule 431(b) (eff. July 1, 2012). Specifically, the appellate defender contended the court erred by asking four jurors whether they understood and accepted the instruction that "if the Defendant does testify, that fact cannot be held against him in any way." After the filing of multiple motions by the State's Attorneys Appellate Prosecutor and the appellate defender, this court remanded to the trial court for the limited purpose of clarifying whether the trial judge told the prospective jurors that if the defendant (1) "does" testify or (2) "does not" testify, that fact could not be held against him in any way. The corrected transcript indicates the trial judge used the phrase "does not." As a result, the appellate defender notes the supplemental transcript is dispositive of this issue and withdraws the argument. Accordingly, we will not address it.

¶ 26 B. Sentencing

¶ 27 Defendant argues his 30-year sentence should be reduced as manifestly disproportionate to the nature of the offense. We disagree.

¶ 28 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)). However, "the seriousness of an offense is considered the most important factor in determining a sentence."

People v. Jackson, 2014 IL App (1st) 123258, ¶ 53, 23 N.E.3d 430.

¶ 29 With excessive-sentence claims, this court has explained appellate review of a defendant's sentence as follows:

> "A trial court's sentencing determination must be based on the particular circumstances of each case, including factors such as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. [Citations.] Generally, the trial court is in a better position than a court of review to determine an appropriate sentence based upon the particular facts and circumstances of each individual case. [Citation.] Thus, the trial court is the proper forum for the determination of a defendant's sentence, and the trial court's decisions in regard to sentencing are entitled to great deference and weight. [Citation.] Absent an abuse of discretion by the trial court, a sentence may not be altered upon review." (Internal quotation marks omitted.) *People v. Price*, 2011 IL App (4th) 100311, ¶ 36, 958 N.E.2d 341 (quoting *People v. Hensley*, 354 Ill. App. 3d 224, 234-35, 819 N.E.2d 1274, 1284 (2004), quoting *People v. Kennedy*, 336 Ill. App. 3d 425, 433, 782 N.E.2d 864, 871 (2002)).

An abuse of discretion will not be found unless the court's 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. Also, an abuse of

discretion will be found "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 *People v. Stacey*, 193 Ill. 2d 203, 210, 737 N.E.2d 626, 629 (2000)).

¶ 30 In the case *sub judice*, the jury found defendant guilty of the offense of causing a catastrophe, a Class X felony (720 ILCS 5/29D-15.1(c) (West 2014)). A person convicted of a Class X felony is subject to a sentencing range of 6 to 30 years in prison. 730 ILCS 5/5-3.5-25(a) (West 2014). When a sentence falls within the statutory range of sentences possible for a particular offense, it is presumed not to be arbitrary. *People v. Moore*, 41 Ill. App. 3d 3, 4, 353 N.E.2d 191, 192 (1976). Instead, as indicated, we must find it to be at odds with the purpose and spirit of the law or manifestly disproportionate in order to consider it an abuse of discretion. *People v. Weiser*, 2013 IL App (5th) 120055, ¶ 33, 993 N.E.2d 614. As the trial court's 30-year sentence falls within the relevant sentencing range, we will not disturb the sentence absent an abuse of discretion.

¶ 31 At the sentencing hearing, the trial court stated it considered the presentence report, the statutory factors in aggravation and mitigation, arguments of counsel, and defendant's statement in allocution. The court noted defendant's criminal history, which included two convictions for criminal damage to property in Ludlow. Finding the deterrent factor needed to come across "loudly and clearly" and be "unmistakable," the court concluded a 30-year sentence was appropriate. We find no abuse of discretion.

¶ 32 Defendant, however, argues his 30-year sentence for his "hapless," "anxious," and "clumsy attempt to destroy evidence of a retail theft is manifestly disproportionate to the nature of the offense" and constitutes "unduly harsh punishment." Defendant confuses the almost

ridiculous reason for the commission of the crime with the purpose and intent of the statute under which he was convicted. It is clear from a plain reading of the statute the legislature was rightfully concerned about the far-reaching and significant effect on public safety a catastrophe by explosion, fire, or other means, might have on a "vital public facility," such as a police station. Admittedly, the Ludlow community building which housed the police station may not be on par with major metropolitan public facilities; however, its relative importance to the community of Ludlow is no different. By destroying the only police station in the community, defendant's actions affected the community as a whole. In addition, defendant's intent was to impede the ability of the police to investigate and ultimately prosecute him; thereby thwarting the administration of justice in the community. The crimes he sought to hide were minor; his methods to do so were not.

¶ 33 Defendant plotted to cause great destruction—as evidenced by his decision to use a five-gallon can of gasoline as either a bomb or an accelerant in his plan to burn down the police station. His entry into the building was a burglary intended to commit arson for the purpose of obstructing justice—all felonies. The fire destroyed the building, and as the police chief said, nothing was "salvageable" and everything inside, including evidence and records, "was just completely gone." Although true defendant may have had no "terrorist motive," the total destruction of a police station, even for stupid reasons, warranted a substantial sentence. The trial court was within its discretion to sentence defendant accordingly. We find the 30-year sentence imposed on defendant by the 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 215, 940 N.E.2d at 1067 (quoting *Stacey*, 193 Ill. 2d at 210, 737 N.E.2d at 629).

¶ 34 III. CONCLUSION

¶ 35 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $50 statutory assessment against defendant as costs of this appeal.

¶ 36 Affirmed.