

2019 IL App (1st) 160126-U

No. 1-16-0126

Order filed March 15, 2019

Fifth Division

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 16589
	)	
MELVIN HOSKINS,	)	Honorable
	)	Kevin M. Sheehan,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE LAMPKIN delivered the judgment of the court.  
Justices Hoffman and Hall concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm defendant's 75-year prison sentence for first degree murder where the trial court gave due consideration to the aggravating and mitigating factors.

¶ 2 Following a jury trial, defendant Melvin Hoskins was convicted of first degree murder. The trial court sentenced defendant to 75 years' imprisonment, which included a 25-year firearm enhancement. On appeal, defendant argues that his sentence is excessive because the trial court placed too much weight on deterrence and failed to consider mitigating factors that demonstrated

his rehabilitative potential, including his age, marriage, familial relationships, previous treatment for alcohol addiction, religious conversion, remorse, and desire to return to school. We affirm.<sup>1</sup>

¶ 3 Defendant was indicted on six counts of first degree murder with a firearm of Edward Jackson (720 ILCS 5/9-1(a)(1), (2) (West 2010)), who was fatally shot on June 19, 2011, in Chicago, Illinois.<sup>2</sup> Defendant does not dispute the sufficiency of the trial evidence, so we recite only those facts relevant to our disposition of the issue on appeal.<sup>3</sup>

¶ 4 At trial, Edward's cousin, Ivan Miller, testified about an encounter that he had with defendant and co-defendant Gregory Williams at a restaurant a couple of days before Edward was shot. At the restaurant, co-defendant's brother, Jay, approached Ivan and "started talking crazy." After arguing with Jay and co-defendant, Ivan left the restaurant, but encountered co-defendant as he was walking home. Ivan testified that co-defendant pulled out a black .40-caliber semiautomatic gun, and stated, "I will shoot you if you had your gun on you."

¶ 5 Charte Christian testified that, on June 19, 2011, at approximately 5:15 a.m., she left a house party on Parkside Avenue, and stood on the corner of the street with Chante Williams, Princess Christian, defendant, and co-defendant. While Charte was standing on the corner, Edward approached her and began speaking to her. Charte also stated that Edward spoke with other people who were standing on the corner of Parkside and Potomac Avenue. In particular, Charte overheard a conversation between co-defendant and Edward, in which co-defendant told

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<sup>1</sup> In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

<sup>2</sup> Gregory Williams was also indicted for Edward Jackson's death and convicted of first degree murder following a simultaneous trial before a separate jury. He has appealed in case number 1-16-1700, which is pending before this court as of the date of this order.

<sup>3</sup> Since several witnesses share the same surname, all individuals will be referred to by their first names within this order. In the case of Gregory Williams, he will be referred to as "co-defendant."

Edward that he was going to kill Edward's cousin. After this conversation ended, Charle saw Edward walk towards Waller Avenue. Charle subsequently heard four to five gunshots and left the neighborhood. Later that day, at approximately 2 p.m., near Potomac and Central Avenue, defendant encountered Charle and told her that he shot Edward because "they couldn't get Ivan."

¶ 6 Chante testified that she attended a house party with Charle and Princess. After the party ended, she stood on the corner of Parkside and Potomac, an area where young people from the neighborhood would "[s]ometimes" hang out. Thereafter, Chante observed an aggressive, loud, and angry conversation between co-defendant and Edward near Parkside and Potomac. Chante stated that the atmosphere became tense after she heard co-defendant speak to Edward about his cousin. After two or three minutes, Edward disengaged from the conversation and walked away. Thereafter, Chante saw defendant grab a gun from co-defendant and follow Edward down Waller. As Edward was walking, defendant shot Edward from behind, causing Edward to fall to the ground. Defendant subsequently stood over Edward and shot him "three or four" more times. Immediately after the shooting, Chante ran to her car and drove away.

¶ 7 Princess testified to substantially the same sequence of events as Charle and Chante. Princess stated that, as Edward was talking to Charle, co-defendant, in a "hostile" voice, approached Edward and attempted to speak with him. After 15 minutes, co-defendant left and headed towards a van on Parkside, where he encountered defendant behind the van. Princess stated that she saw co-defendant and defendant talk, but was unable to hear what was said. Co-defendant retrieved a gun from his pants and handed it to defendant, who placed it underneath his jacket. Defendant subsequently followed Edward, who at this point was walking towards Waller, and reached for the gun. Princess looked away, but heard gunshots. When Princess

looked back towards Waller, she saw Edward on his knees and defendant running away with a gun in his hand.

¶ 8 Damien Williams testified that, at approximately 5 a.m., 15 people, including defendant, co-defendant, Chante, Charle, and Princess were drinking together near Potomac and Division Street. Although Damien was not paying attention to Edward, Damien stated that he observed Edward approach the “crowd” and start “talking about his cousin.” Damien denied seeing any hostility between Edward and co-defendant. Damien left the crowd and proceeded to walk home on Parkside. After arriving, Damien stated that he heard gunshots.

¶ 9 Stipulated testimony revealed that Damien had previously been interviewed by Chicago police detective Jack Gonzalez. During the interview, Damien stated that he observed an exchange between Edward and co-defendant, which Damien characterized as tense. Damien subsequently left because he did not want to get involved.

¶ 10 Chicago police officer Gathings testified that, at approximately 5 a.m., he and his partner received a radio call about a shooting at 5700 Potomac.<sup>4</sup> Upon arriving at the location, Gathings discovered a man lying on the ground, who was still alive. Gathings also stated that the area was devoid of people.

¶ 11 Chicago police forensic investigator Kathleen Gahagan testified that she arrived at 5700 Potomac and photographed various items, including a baseball cap, beer bottle, cigarette butt, and eight .40-caliber cartridge casings. After photographing these items, they were collected and submitted to the “state crime lab.”

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<sup>4</sup> Officer Gathing’s first name does not appear in the record.

¶ 12 Stipulated testimony from firearms examiner Gina Giglio revealed that she examined a fired bullet jacket fragment, one lead fragment, one fired bullet fragment, and eight .40-caliber fired casings. Giglio concluded that the fired bullet jacket fragment and fired bullet fragment were .40-caliber bullets. Furthermore, she determined that the eight .40-caliber fired casings were fired from the same firearm.

¶ 13 An assistant medical examiner testified that he reviewed Edward's autopsy report, and concluded that two gunshot wounds to his chest and left leg were the causes of death. One bullet, which was recovered from Edward's chest, penetrated Edward's lower left lung, entered the left adrenal, and caused a "laceration of the aorta." Another bullet, which was recovered from Edward's leg, penetrated Edward's left thigh and fractured his femur. The medical examiner characterized the manner of death as "homicide."

¶ 14 The jury found defendant guilty of first degree murder with a firearm. Defendant's motion for acquittal or a new trial was denied.

¶ 15 The case proceeded to a sentencing hearing, where the trial court received defendant's presentence investigation (PSI) report, which listed defendant's date of birth as February 14, 1988, showing that he was 27 years old on the day of his presentence interview. The PSI report revealed prior convictions, including unlawful use or possession of a weapon by a felon in 2011, with three years' imprisonment; unlawful possession of a controlled substance in 2010, with 18 months' imprisonment; and unlawful possession of a controlled substance in 2005, with two years' probation that was subsequently revoked. In addition to defendant's adult criminal convictions, the report listed juvenile adjudications for unlawful possession of a controlled substance and possession of cannabis. The PSI report further noted that defendant dropped out of

high school, denied participating in community organizations, reported no friendships, and indicated that he maintained a close relationship with his mother and siblings. Although defendant admitted to consuming one gallon of vodka per day for 10 years, he denied seeking treatment for his self-reported alcohol addiction. Defendant had never been employed and was financially supported by his wife. The PSI report noted that defendant joined the Traveling Vice Lord street gang at age 15, but it was amended by the parties to reflect that he was no longer a member.

¶ 16 At the sentencing hearing, the State stressed defendant's prior convictions, which included unlawful use or possession of a gun, and noted the "brutal" circumstances of Edward's murder. In particular, the State highlighted that Edward was unarmed when he was shot in the back as he was walking away from an argument. Edward's mother provided a victim impact statement, which was read by Edward's grandmother. The statement revealed that Edward was his mother's only son and that her "heart is broken" because Edward would never get the opportunity to graduate, marry, or have children of his own. Edward assisted his family with buying groceries, carrying the laundry, mowing the lawn, providing car maintenance, and caring for his mother when she was ill. Moreover, Edward participated in his local church, and provided basketball advice to the neighborhood children. The State asked the trial court to sentence defendant to a "substantial amount above the minimum" of 45 years' imprisonment.

¶ 17 In mitigation, the defense argued that defendant was raised without a father and dropped out of high school in the ninth grade. Defense counsel characterized defendant as a "stooge" and noted that he was not the "brains behind the operation." Defendant also stopped associating himself with "those people he used to hang out with." The defense pointed out that defendant

was married, had a “substantial” history of alcohol abuse, changed his life through religious conversion, and that the minimum sentence amounted to a life sentence. In allocution, defendant apologized to Edward’s family, expressed a desire to return to school, and stated that he had given his life to God.

¶ 18 In imposing sentence, the trial court stated that it had considered the evidence at trial, reviewed the corrected PSI report, heard the victim impact statement and defendant’s allocution, and listened to the arguments in aggravation and mitigation. The trial court acknowledged that defendant was not “the brains,” but the “brawn of [the] operation”; however, he still “decided to take that gun and be the tough guy.” Furthermore, the trial court stated that Edward, as he was walking away from a confrontation, was “pursued by the defendant like prey by a hunter.” Defendant followed Edward, “executed” him in “cold blood,” and left his “lifeless body there for all the residents to see.” The trial court found it necessary to “detour [*sic*] others who are like-minded with [defendant] that life is cheap, and the senseless wholesale execution of other individuals and human beings on the streets of this city is just unacceptable.” The trial court sentenced defendant to 50 years’ imprisonment on one count of first degree murder, plus a 25-year firearm enhancement, for a total of 75 years’ imprisonment, and stated that the remaining counts merged.<sup>5</sup> The trial court denied defendant’s motion to reconsider sentence. In so holding, the court emphasized that the shooting was “cold” and “calculated,” and that it chose not to sentence defendant to life imprisonment.

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<sup>5</sup> The trial court stated that “Counts 1, 2, 3, and 4” merged “into Count 5.” Because the verdict forms did not distinguish between counts, and the record does not show the State nolle-prossed a count, it is unclear how the remaining count of the indictment was disposed.

¶ 19 On appeal, defendant contends that the trial court erred by imposing a *de facto* natural life sentence, which failed to take into consideration mitigating evidence demonstrating his rehabilitative potential. The State, in response, maintains that defendant's sentence is appropriate because the trial court properly weighed the factors in aggravation and mitigation before issuing a sentencing within the statutory range.

¶ 20 The Illinois Constitution requires that sentences reflect the seriousness of the offense and the objective of restoring the offender to useful citizenship. Ill. Const. 1970, art. I, § 11. A trial court's sentencing decision is entitled to great deference, and it will not be disturbed on appeal unless the trial court abused its discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-10 (2000). A sentence will generally not be found to be an abuse of discretion if it is within the permissible statutory sentencing range for the offense, 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. Fern*, 189 Ill. 2d 48, 54 (1999). The sentence imposed is entitled to great deference and weight because a trial court is in a better position to consider the defendant's credibility, character, demeanor, mentality, age, social environment, and habits. *Stacey*, 193 Ill. 2d at 209. Because it is the trial court's responsibility to weigh the competing factors, we cannot substitute our judgment for that of the trial court simply because we might balance the factors differently. *People v. Streit*, 142 Ill. 2d 13, 19 (1991).

¶ 21 The sentencing range for first degree murder is between 20 and 60 years (730 ILCS 5/5-4.5-20(a) (West 2010)). Additionally, 25 years or up to a term of natural life is added when, as here, a person personally discharges a firearm that proximately causes the death of another person. 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West Supp. 2009). Thus, the possible sentencing range

for first degree murder, including the automatic firearm enhancement, is 45 years to natural life. The trial court sentenced defendant to 75 years' imprisonment, which is 30 years above the minimum but less than a term of natural life.

¶ 22 In sentencing defendant, the trial court explained that it had reviewed the trial evidence and emphasized that Edward was unarmed when defendant followed him and shot him from behind in "cold blood." The trial court found that Edward was "walking away" when defendant followed Edward like "prey by a hunter." The trial court was apprised of defendant's conviction for unlawful use or possession of a weapon by a felon and his two convictions for unlawful possession of a controlled substance, along with his juvenile adjudications for unlawful possession of a controlled substance and possession of cannabis. Additionally, the trial court considered the victim impact statement written by Edward's mother, which described Edward's involvement within the community and his familial relationships. Thus, the record establishes that the trial court imposed a penalty within the sentencing range after it had considered the relevant circumstances. See *People v. Jackson*, 2014 IL App (1st) 123258, ¶ 54 (the trial court did not err in considering the gruesome nature of the victim's death); *People v. McGee*, 398 Ill. App. 3d 789, 795 (2010) (finding the trial court properly took into account the defendant's extensive criminal history at sentencing); *People v. Wyatt*, 186 Ill. App. 3d 772, 781 (1989) (the victim impact statement was properly considered by the trial court in sentencing the defendant for aggravated criminal sexual abuse).

¶ 23 Nevertheless, defendant maintains that the trial court failed to take into consideration a number of mitigating factors establishing his rehabilitative potential, including his marriage, his age at the time of the offense (23 years old), familial relationships, previous treatment for alcohol

addiction, religious conversion, remorse, intent to engage in ministry, and plan to return to school. Defendant further contends that his sentence was “heavily based on the ineffective concept of deterrence.” The record, however, establishes that defendant was not a juvenile when the offense occurred and that the trial court considered all the appropriate factors, including the mitigating factors cited by defendant and the need to deter others in light of the seriousness of the offense. See *People v. Hernandez*, 319 Ill. App. 3d 520, 529 (2001) (“[i]n 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 weighed).

¶ 24 In this case, the corrected PSI report, which the trial court reviewed, stated that defendant denied ever seeking treatment for his alcohol addiction, dropped out of high school in the ninth grade, had never been employed and was financially supported by his wife, failed to participate in community organizations, and reported no friendships. The report additionally listed defendant’s date of birth, and indicated that he maintained a close relationship with his mother and siblings. The trial court also considered defendant’s allocution, which emphasized his remorse, desire to return to school, and recent devotion to God. Defense counsel additionally pointed out that defendant was the “stooge” who carried out the directives of another individual. After being presented with all this information, the trial court acknowledged that it considered the corrected PSI report and the arguments in mitigation. Hence, the record reveals that the trial court contemplated the mitigating factors, along with defendant’s age, criminal history, the need to deter others, and the seriousness of the present offense, which is the most important factor to consider at sentencing. *People v. Evans*, 373 Ill. App. 3d 948, 968 (2007). Furthermore, “the

court need not impose the minimum sentence merely because there are mitigating factors.” *People v. Charles*, 2018 IL App (1st) 153625, ¶ 45 (citing *People v. Abrams*, 2015 IL App (1st) 133746, ¶ 34).

¶ 25 Moreover, although the trial court did not expressly state that defendant lacked rehabilitative potential, it was not required to “detail precisely for the record the exact process by which [it] determined the penalty nor is [it] required to articulate [its] consideration of mitigating factors nor is [it] required to make an express finding that defendant lacked rehabilitative potential.” *People v. Redmond*, 265 Ill. App. 3d 292, 307 (1994) (citing *People v. Boclair*, 225 Ill. App. 3d 331, 335 (1992)). Therefore, we reject defendant’s position that the trial court ignored the evidence in mitigation, and we will not reweigh the factors on appeal. *Streit*, 142 Ill. 2d at 19.

¶ 26 Based on the foregoing, the judgment of the trial court is affirmed.

¶ 27 Affirmed.