

2019 IL App (1st) 163004-U

Order filed February 1, 2019

SIXTH DIVISION

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 15 CR 6722
)	
DEANDA WILSON,)	Honorable
)	Timothy Joseph Joyce,
Defendant-Appellant.)	Judge, presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm defendant's 30-year prison sentence for armed robbery where the trial court gave due consideration to the aggravating and mitigating factors.

¶ 2 Following a bench trial, defendant Deanda Wilson was convicted of multiple counts of armed robbery, unlawful use or possession of a weapon by a felon, aggravated unlawful restraint, and armed habitual criminal. The trial court sentenced defendant to concurrent terms of 30 years' imprisonment on two counts of armed robbery, which each included a 15-year firearm

enhancement. On appeal, defendant argues that his sentence is excessive because the trial court failed to properly weigh mitigating factors, including his desire to rehabilitate himself, lack of substance abuse or gang affiliation, strong familial support, and the lack of physical harm to the victims. We affirm.

¶ 3 Defendant was charged by information with, *inter alia*, two counts of armed robbery with a firearm (720 ILCS 5/18-2(a)(2) (West 2014)), four counts of unlawful use or possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2014)), two counts of aggravated unlawful restraint (720 ILCS 5/10-3.1 (West 2014)), and one count of armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2014)).

¶ 4 The evidence at trial established that, on April 12, 2015, defendant entered a Family Dollar store in Chicago, pointed a revolver at an assistant store manager, and demanded money. Defendant collected \$100 and demanded more money from a second store employee. After collecting \$230, defendant exited the store and walked away. The employees contacted the Chicago Police Department and provided a physical description of defendant, who was seen by an officer on the street taking off his jacket. Defendant fled after being approached by an officer, dropping the revolver on the ground. Eventually, officers detained him and discovered \$230 in cash in his pocket. Officers also recovered the revolver, which was loaded. Following defendant's arrest, both store employees identified him as the individual who robbed the store. The State admitted certified copies of defendant's 2011 convictions for robbery and aggravated robbery.

¶ 5 Defendant testified that he ran away from an officer after being approached on the street, but did so out of fear. He also denied possessing a handgun, robbing the Family Dollar store, or

knowing an inmate whose name appeared on a bag of clothing that was collected from defendant following his arrest. The inmate denied switching clothes with defendant.

¶ 6 The trial court found defendant guilty of armed robbery, unlawful use or possession of a weapon by a felon, aggravated unlawful restraint, and armed habitual criminal. Defendant's *pro se* motion for a new trial and defense counsel's motion to reconsider was denied by the trial court.

¶ 7 The case proceeded to a sentencing hearing, where the trial court received defendant's presentence investigation (PSI) report. The PSI report revealed numerous prior convictions, including aggravated robbery in 2011, with 85-months' imprisonment; robbery in 2011, with 72-months' imprisonment; perjury in 2006, with 60 months' imprisonment; second degree murder in 2000, with 111 months' imprisonment; delivery of a controlled substance in 1997, with 36 months' probation; theft in 1996, with 36 months' probation; and unlawful use of a weapon in 1995, with 12 months of conditional discharge. In addition to defendant's adult criminal convictions, the report listed juvenile adjudications for aggravated assault and attempted automobile theft. The report further noted that defendant earned a GED, was most recently employed for two months by an unknown temporary employment agency, and did not maintain a close relationship with either of his children. Although defendant denied any gang involvement, the Chicago Police Department reported that he was affiliated with a street gang, the Traveling Vice Lords. Defendant denied past or present drug and alcohol use.

¶ 8 At the sentencing hearing, the State stressed defendant's "lengthy" and "very serious" criminal history. In particular, the State highlighted defendant's previous convictions for aggravated robbery, robbery, perjury, and second degree murder. According to the State,

defendant's instant conviction for armed robbery was "just another showing of how violent [he] is." In mitigation, the defense argued that defendant had a mother and brother who had attended previous court dates. The defense also stressed defendant's intelligence and desire to contribute positively to society.

¶ 9 In imposing sentence, the trial court stated that it had reviewed the PSI report, considered the evidence at trial, and listened to the arguments in aggravation and mitigation. The trial court noted that the store employees did not sustain severe bodily injuries as a result of defendant's actions. However, the trial court also observed that defendant had a "substantial violent criminal history." The trial court sentenced defendant to concurrent terms of 15 years' imprisonment on the two counts of armed robbery, plus 15-year firearm enhancements on each count, for a total of 30 years' imprisonment, and stated that all other counts merged. The trial court denied defendant's motion to reconsider sentence.

¶ 10 On appeal, defendant contends that his sentence is excessive because the trial court failed to properly weigh mitigating factors, such as his desire to rehabilitate himself, lack of substance abuse or gang affiliation, strong familial support, and the lack of physical harm to the store employees. The State, in response, maintains that defendant's sentence is appropriate because the trial court properly weighed the factors in aggravation and mitigation.

¶ 11 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 209-10. Additionally, the Unified Code of Corrections provides mitigating and aggravating factors that trial courts should weigh when fashioning a sentence. 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2014). 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).

¶ 12 In this case, defendant was sentenced on two counts of armed robbery. Armed robbery with a firearm is a Class X felony (720 ILCS 5/18-2(b) (West 2014)), with a sentencing range between 6 and 30 years (730 ILCS 5/5-4.5-25 (West 2014)). Additionally, an automatic 15-year enhancement applies when, as here, a person commits armed robbery using a firearm. 720 ILCS 5/18-2(b) (West 2014). Thus, the possible sentencing range for armed robbery with a firearm, including the automatic 15-year enhancement, is 21 to 45 years. The trial court sentenced defendant to two concurrent terms of 30 years’ imprisonment, which is 15 years below the maximum sentencing range and 9 years above the minimum, well within the sentencing range.

¶ 13 In sentencing defendant, the trial court explained that it had reviewed the PSI report, listened to the arguments regarding the factors in aggravation and mitigation, and reviewed the trial evidence. The trial court noted that the PSI report revealed that defendant had a substantial criminal history spanning 15 years, which included convictions for aggravated robbery, robbery,

perjury, second degree murder, unlawful use of a weapon, and delivery of a controlled substance, along with juvenile adjudications for aggravated assault and attempted automobile theft. Based on these offenses, the trial court stated that defendant had a “substantial violent criminal history.” Pursuant to section 5-5-3.2(a)(1) and (3) of the Unified Code of Corrections (730 ILCS 5/5-3.2(a)(1), (3) (West 2014)), the trial court could consider defendant’s “prior *** criminal activity” as an aggravating factor, and in doing so, consider it in light of the fact that defendant “threatened serious harm” by pointing a loaded gun in the direction of two store employees. Therefore, we find that the trial court did not abuse its discretion because the record establishes that it imposed a penalty within the sentencing range after it had considered the relevant circumstances.

¶ 14 Nevertheless, defendant maintains that the trial court failed to take into consideration a number of mitigating factors, including his desire to rehabilitate himself, lack of substance abuse or gang affiliation, strong familial support, and the fact that he did not physically harm the store employees whom he robbed. Defendant further contends that the trial court should not have considered whether his conduct threatened serious harm as a sentencing factor because it was already accounted for by the firearm enhancement penalty. The record, however, establishes that the trial court considered appropriate factors, including the mitigating factors cited by defendant. The PSI report, which the trial court reviewed, stated that defendant earned a GED and denied using alcohol or drugs, but had been affiliated with a street gang. The trial court also acknowledged that there was “no severe bodily injury alleged or shown in this instance.” Defense counsel additionally pointed out that defendant desired to contribute to society, and noted that defendant’s mother and brother had attended previous court dates. After being

presented with all this information, the trial court acknowledged that it considered the PSI report and the arguments in mitigation. Hence, the record reveals that the trial court contemplated the mitigating factors, along with defendant's extensive violent criminal history, the harm threatened by defendant, 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); 730 ILCS 5/5-5-3.2(a)(1) (West 2014). Moreover, although the trial court did not expressly state that defendant lacked rehabilitative potential, it was not required to explain the exact process by which it determined the sentence, nor make an express finding that defendant lacked rehabilitative potential. *People v. Redmond*, 265 Ill. App. 3d 292, 307 (1994). 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.

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

¶ 16 Affirmed.