

No. 1-09-2026

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. 07 CR 18687
)	
DENNIS FRANKLIN,)	Honorable
)	Frank G. Zelezinski,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE QUINN delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 *Held:* Although defense counsel presented mitigating factors of defendant's age, limited criminal history and rehabilitative potential, trial court did not abuse discretion in imposing 53-year sentence, which was eight years above the minimum term, for murder in which defendant personally discharged weapon; defendant's sentence was affirmed.

¶ 2 Following a jury trial, defendant Dennis Franklin was convicted of first degree murder and was sentenced to 53 years in prison, which included a mandatory 25-year firearm enhancement. On appeal, defendant contends his sentence was excessive in light of his age at

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the time of the offense, his minimal criminal history and his strong rehabilitative potential. We affirm.

¶ 3 Because defendant does not challenge the sufficiency of the evidence to support his conviction, we set out only the facts necessary to consider his sentencing arguments. Defendant was convicted of the first degree murder of 18-year-old Deandre Slaughter, which occurred on April 25, 2007. At least two witnesses testified they saw defendant and his female companion, Latrice Miller, each shoot the victim. The jury found that defendant personally discharged a firearm that proximately caused the victim's death, which subjected defendant to a 25-year sentence enhancement pursuant to section 5-8-1(a)(1)(d)(iii) of the Unified Code of Corrections (730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2006)).

¶ 4 In aggravation of defendant's sentence, the prosecution read to the jury the victim impact statement of April Donerson, Slaughter's mother. The State also argued that defendant was on probation for a robbery conviction at the time of the present offense.

¶ 5 Defense counsel did not present any evidence in mitigation of defendant's sentence; however, counsel argued in mitigation that defendant had no criminal background aside from the previous robbery and that defendant had earned his general education degree while in jail awaiting trial. Counsel further pointed out that defendant was only 18 years old at the time of the offense.

¶ 6 Before imposing defendant's sentence, the trial court stated:

"The court has reviewed all matters before it in aggravation and mitigation. The court has heard the victim impact statement as presented as evidence in aggravation [a]nd has heard the arguments of counsel. The court has diligently reviewed the presentence investigation before it. Most of all, this court is the

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court that presided over the trial and heard the evidence in this case.

Numerous factors exist, as the attorneys have argued in aggravation and mitigation. Mitigating factors do include the fact that the defendant was youthful in age, 18 years of age at the time this offense was committed. Had obtained a GED. Shown that he had some potential in his lifetime [a]nd his criminal background was not extensive.

However, in aggravation, you have the nature of the offense which the court does look at equally. And this was not an offense in which the defendant primarily was involved in a fight or at the location when the victim was involved in the silliness or horseplay of a street type fight. That had ended. The defendant was not present. It was after that, it was all over, everyone was leaving where the defendant and the female partner of his did arrive, parked the car, and sought out and found [the victim], and the two of them fired numerous shots into him ***."

¶ 7 The court noted that Slaughter did not provoke the attack and did not carry a weapon of his own. The court went on to state that "these actions certainly show [the] character of the defendant which are extremely aggravating," noting "the senselessness of him coming to the location with the female and partaking in basically what could be considered almost an execution type of killing of this victim who was by himself in the alley[,] [a]s the evidence has presented."

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¶ 8 The court further noted in aggravation that defendant had been "on bond for a robbery charge at the time this occurred," and that he had pled guilty to that offense shortly after the shooting in this case. The court noted the robbery was an offense that involved force.

¶ 9 The court concluded that the factors presented in aggravation "do outweigh those in mitigation, namely because of the senselessness of the act that occurred." The court sentenced defendant to a total of 53 years in prison, including the firearm enhancement.

¶ 10 On appeal, defendant contends his sentence essentially represents a sentence of life in prison. He argues the sentence was excessive given that he was 18 years old at the time of the offense and had a limited criminal history, which consisted of the "non-violent" offense of robbery. Defendant further argues he demonstrated a strong potential for rehabilitation and that the trial court did not fully consider those mitigating factors.

¶ 11 A trial court has broad discretion in determining an appropriate sentence, and a reviewing court will reverse the trial court's sentencing determination only where the trial court has abused its discretion. *People v. Patterson*, 217 Ill. 2d 407, 447-48 (2005); *People v. Willis*, 409 Ill. App. 3d 804, 815 (2011). A sentence within the statutory range does not constitute an abuse of discretion unless it varies greatly from the purpose of the law or is manifestly disproportionate to the nature of the offense. *Willis*, 409 Ill. App. 3d at 815.

¶ 12 Defendant was convicted of first degree murder pursuant to section 9-1(a)(1) of the Criminal Code of 1961 (720 ILCS 5/9-1(a)(1) (West 2006)). That offense carries a sentence of between 20 and 60 years in prison. 730 ILCS 5/5-8-1(a)(1)(a) (West 2006). A sentence enhancement of 25 years up to a term of natural life shall be applied if, during the commission of the offense, the defendant personally discharged a firearm that proximately caused bodily harm, disfigurement or death. 730 ILCS 5/5-8-1(d)(iii) (West 2006). Because the jury in this case found that factor was proven, defendant was eligible for a minimum sentence of 45 years in

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prison up to a sentence of natural life. Thus, defendant's 53-year sentence was within the applicable sentencing range and, in fact, was close to the lower end of the range.

¶ 13 As to the specific factors argued by defendant on appeal, the record establishes that in mitigation of defendant's sentence, defense counsel pointed out to the court defendant's age and limited criminal history. Moreover, those circumstances were expressly noted by the court when it imposed defendant's sentence, as the above-quoted remarks indicate.

¶ 14 Defendant further points out that he demonstrated a strong potential for rehabilitation by earning his GED, and he contends the trial court failed to lend adequate weight to that factor. The trial court is not required to make an express finding that a defendant lacked rehabilitative potential. *People v. Hayes*, 409 Ill. App. 3d 612, 629 (2011). Moreover, the court is not required to give greater weight to a defendant's rehabilitative potential than to the seriousness of the crime. *Hayes*, 409 Ill. App. 3d at 629, citing *People v. Coleman*, 166 Ill. 2d 247, 261 (1995). Here, while reviewing various factors in aggravation and mitigation, the court mentioned defendant obtained a GED, and the court remarked that defendant "had shown some potential in his lifetime."

¶ 15 Defendant directs this court to several cases in which a defendant's sentence was reduced because the trial court failed to fully consider the same mitigating factors emphasized in this appeal. However, defendant's reliance on those cases is unwarranted because here, the trial court expressly mentioned his age and limited criminal history on the record and also mentioned his rehabilitative potential. Given this record, we lack any basis to disturb defendant's sentence.

¶ 16 Defendant further points out that Miller, who also shot the victim, received a sentence of 37 years, which is 16 years shorter than his term. Defendant and Miller were charged in the same indictment but were not tried together. The mere fact that one defendant receives a substantially longer sentence than another does not, in and of itself, establish a violation of

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fundamental fairness. *People v. Cooper*, 239 Ill. App. 3d 336, 363 (1992). The record before this court does not indicate how Miller's case was disposed of and does not include documentation of Miller's background or a record of aggravating and mitigating factors applicable in her sentencing. Therefore, no meaningful comparison can be made by this court of Miller's sentence and defendant's sentence. See, e.g., *People v. Reed*, 324 Ill. App. 3d 671, 683 (2001) (when record is unclear and circumstances under which another person involved in crime are unknown, such uncertainty places burden on defendant to provide record from which a rational comparison of sentences can be made).

¶ 17 In summary, the record reflects that in sentencing defendant, the trial court considered defendant's age, criminal history and rehabilitative potential in imposing a sentence well within the range provided by statute.

¶ 18 Accordingly, the judgment of the trial court is affirmed.

¶ 19 Affirmed.