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2011 IL App (3d) 090976-U

Order filed September 23, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

REBECCA S. PRUETT,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 14th Judicial Circuit,
) Henry County, Illinois,
)
) Appeal No. 3-09-0976
) Circuit No. 09-CF-28
)
) Honorable
) Ted J. Hamer,
) Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* The 19-year sentence imposed upon defendant was not an abuse of discretion by the trial court. The sentence represented a midrange term of imprisonment and was tailored with both the seriousness of the offense and the possibility of rehabilitation in mind.

¶ 2 Defendant, Rebecca S. Pruett, was charged with aggravated battery of a child (720 ILCS 5/12-4.3(a) (West 2008)). Following a bench trial, defendant was convicted of the charge and sentenced to 19 years' imprisonment. Defendant appeals her sentence, arguing that it was an abuse of discretion given her lack of a significant criminal history and her rehabilitative

potential. We affirm.

¶ 3

FACTS

¶ 4 On January 17, 2009, L.N., a 14½-month-old child, was taken to defendant's trailer and placed in defendant's care. During the evening, L.N. was rendered unconscious and suffered serious injuries that included: (1) seizure-like movements in his extremities caused by brain damage or bleeding around the brain; (2) hematomas under his tongue, on his scalp, and on the right and left sides of his brain; (3) an abrasion on his upper lip; (4) retinal bleeding in both eyes; (5) a bruised cheek, scalp, eyelid, and ear; (6) multiple pinpoint bleeding sites on his neck; and (7) damage to his penis caused by twisting, holding, or squeezing.

¶ 5 Defendant, the only adult with L.N. at the time of the injuries, was charged with, and convicted of, aggravated battery of a child (720 ILCS 5/12-4.3(a) (West 2008)). Prior to sentencing, a presentence investigation report (PSI) was prepared. According to the PSI, defendant had prior convictions for battery and domestic battery. The PSI further stated that defendant admitted to significant drug and alcohol abuse and considered herself an alcoholic.

¶ 6 A sentencing hearing was held on November 4, 2009. L.N.'s father testified that L.N. was currently doing better but that he was still undergoing therapy. He stated that L.N. had spent 4½ weeks in the hospital as a result of defendant's battery. A number of witnesses testified that they had often seen defendant with children but never saw her hurt a child. Defendant did not make a statement, but she did write a letter to the court saying that she recognized her responsibility but said, "How do I express myself to show remorse for the situation and circumstances which I've been accused of?"

¶ 7 After hearing all of the evidence and reviewing the PSI, the trial court sentenced

defendant to a term of 19 years' imprisonment. In making its determination, the court noted that this was not a case where defendant should receive the minimum or maximum sentence.

According to the court, a minimum sentence should be reserved for a defendant without a prior record and cases where the victim's injuries are not as significant as they were here. A maximum sentence, on the other hand, should be reserved for a defendant with a significant criminal history and no possibility of rehabilitation, and who had injured a victim so heinously that they would not be able to recover.

¶ 8 The trial court believed that a midrange sentence of 19 years was appropriate because of: (1) the seriousness of the victim's injuries; (2) defendant's prior battery convictions and drug use; (3) the fact that the crime was a cowardly act upon a defenseless child; (4) the injuries inflicted upon the victim did not result from a single act but must have taken place over a short period of time; and (5) the sentence would deter others from committing the same crime. Defendant appeals.

¶ 9 ANALYSIS

¶ 10 Defendant appeals her sentence, arguing that the 19-year term of imprisonment was an abuse of discretion given her lack of a significant prior criminal history and her rehabilitative potential. The Illinois Constitution mandates that all penalties 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. However, the determination and imposition of a sentence involves considerable judicial discretion, and we will not reverse a trial court's sentence unless we find that the court abused its discretion. *People v. La Pointe*, 88 Ill. 2d 482 (1981). A trial court is in a far better position than an appellate court to fashion an appropriate sentence

based upon firsthand consideration of factors such as defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Streit*, 142 Ill. 2d 13 (1991). Therefore, we will not substitute our judgment for that of the trial court just because we may have balanced the sentencing factors differently. *Id.*

¶ 11 Here, the trial court did not abuse its discretion when it sentenced defendant. Aggravated battery of a child is a Class X felony (720 ILCS 5/12-4.3(b)(1) (West 2008)) with a sentencing range of not less than 6 years and not more than 30 years (730 ILCS 5/5-8-1(a)(3) (West 2008)). Defendant's sentence was in the middle of the sentencing range. Because defendant's sentence was not the maximum, we do not find *People v. Cooper*, 283 Ill. App. 3d 86 (1996), a case cited by defendant, persuasive.

¶ 12 We further find that the trial court did not abuse its discretion when it weighed factors before determining defendant's sentence. Again, we note that even if we would have balanced the factors differently and arrived at a lighter sentence, it is not our job to resentence defendant when the trial court did not abuse its discretion. The trial court determined that a sentence of 19 years was appropriate after noting: (1) the seriousness of the victim's injuries; (2) defendant's prior battery convictions and drug use; (3) the fact that the crime was a cowardly act upon a defenseless child; (4) the injuries inflicted on the victim did not result from a single act but must have taken place over a short period of time; and (5) the sentence would deter others from committing the same crime. We note that these factors could lead to a finding that a midrange sentence was appropriate.

¶ 13 The trial court was in the best position to determine the appropriate sentence, and we cannot say that an abuse of discretion has occurred. Therefore, the judgment of the circuit court

is affirmed.

¶ 14

CONCLUSION

¶ 15 The judgment of the circuit court of Henry County is affirmed.

¶ 16 Affirmed.