



¶ 3 A brief overview of the facts pertinent to the propriety of the sentences follows.

¶ 4 During the evening hours on February 22, 2007, Mattie Walker-Bennet called the Alton police department to report that her son, Ernest Walker, was missing. Mattie reported that she had received a call from an unidentified person earlier that evening. The caller informed her that Ernest had been badly beaten by some men while he was at the Alton Acres Housing Project (Alton Acres) in Alton, Illinois, and that Ernest wanted to talk with her. Ernest got on the phone and told his mother that he had been beaten and that they were going to kill him. Keith Walker, Ernest's twin brother, also called the Alton police to report that his brother was missing. Keith reported that he had received a call from an unknown individual who informed him that Ernest had been beaten and that he went to Alton Acres but could not find his brother. Alton police officers responded to Alton Acres. The officers did not find any witnesses who would corroborate a beating and they could not locate Ernest. Alton police put out a missing-person report on Ernest.

¶ 5 On February 24, 2007, Carey Wells, a detective sergeant with the City of Wellston, was dispatched to a house on Wellsmar Street in the City of Wellston, St. Louis County, Missouri. There, Detective Wells located the body of a partially naked black male lying in brush. Detective Wells observed massive blunt trauma to the man's face and a cut to his throat. The facial injuries were so severe that the man had to be identified through his fingerprints. The man was identified as Ernest Walker, a missing person from Alton, Illinois. The Wellston police department notified the Alton police department that Ernest's body had been found in Wellston.

¶ 6 The report from the St. Louis County medical examiner revealed that the cause of death was craniocerebral blunt trauma. The medical examiner noted multiple

fractures of the bones in the face, forehead, and jaw bones, a cranial fracture that exposed the brain, a collapse of the left eye due to trauma, and an inability to identify the right eye. The medical examiner found additional injuries to the man's neck and head, but these did not cause the death. Toxicology tests revealed acute ethanol intoxication.

¶ 7 Detectives from the Alton police department began an investigation. Christopher Atkins, the person who had called Ernest's family, was identified through phone records, and he was interviewed. Several witnesses, each of whom had provided some information about events that occurred at Alton Acres during the last few hours before Ernest disappeared, were identified and interviewed. The witnesses' testimony at the trial was markedly cohesive. The testimony revealed that Ernest was subjected to a series of three beatings in Illinois and Missouri and that the defendant took part in those beatings and in transporting Ernest, against his will, from Alton, Illinois, to St. Louis County, Missouri. A summary of the events leading to the death of the victim, as illustrated by the witnesses, is set forth next.

¶ 8 At about 8:30 p.m. on February 22, 2007, Ernest rode with the defendant and three other people to the Hit-N-Run gas station and convenience store located on State Street in Alton, Illinois. Some employees of the convenience store who worked that evening stated that Ernest appeared to be intoxicated when he entered the store, that he flirted with female employees while inside, and that he had a verbal altercation with another customer at one of the gas pumps. Following the altercation, Ernest and the others left in a brown sedan. Upon reviewing the surveillance video from the convenience store, an Alton police detective identified the defendant, Sigrid Hickman, Terry Ballinger, and Sherman Crockett as persons with whom Ernest had entered the store.

¶ 9 After visiting the convenience store, the defendant, Ernest, Sherman, and Sigrid gathered at Sigrid's apartment in Alton Acres. At that time, Sigrid was dating the defendant, but they did not live together. The defendant occasionally stayed at Sigrid's apartment, but he lived in St. Louis, Missouri. Sigrid's four young daughters lived with her. As Ernest prepared to leave the gathering, he hugged Sigrid's daughters, who were in the living room by themselves. The oldest girl saw Ernest touch her younger sister's buttocks as he hugged her, and she immediately went to tell her mother what she had seen. Sherman Crockett was within earshot and overheard the conversation. Sigrid asked the defendant to tell Ernest to leave. She told the defendant that she did not approve of the way Ernest was acting. She did not tell him that Ernest had inappropriately touched one of her daughters. That information was provided to the defendant by someone else.

¶ 10 The defendant escorted Ernest from the apartment. Sherman followed them outside. The defendant began to argue with Ernest. Sigrid said that the defendant appeared to strike Ernest. Ernest took off. He ran from the apartment. Witnesses observed three black men chasing Ernest. The men tripped up Ernest and then kicked and punched him. They left him lying on the ground and they walked back toward Sigrid's apartment. A few witnesses identified the men who inflicted the beating by name or street name, while a few others provided descriptions of unique attire and physical features of the men. The defendant, Terry Ballinger, and Eric Swisher were identified as the men who struck and kicked Ernest during the initial beating.

¶ 11 Ernest gathered himself and staggered over to Christopher Atkins. Atkins offered to call an ambulance. Ernest declined the offer but asked Atkins to call his family. Atkins called Ernest's mother and informed her that Ernest had been beaten. He then handed his phone to Ernest so that Ernest could talk with his mother. After

Ernest talked with his mother, he began to walk toward Sigrid's apartment. He said that he was going to get his jacket. As Ernest reached a grassy area near Sigrid's apartment, he was surrounded by the defendant, Eric Swisher, Terry Ballinger, and a "real tall man." The defendant said something about Ernest touching his kids and his woman and then punched Ernest in the face. The blow knocked Ernest to the ground. He stayed down. He did not move. He was "out cold." The other men began kicking and punching Ernest as he lay on the ground. Eric kicked Ernest as he yelled that Ernest liked touching and messing with kids. The defendant and the others left for a few minutes. When they returned, Ernest was still on the ground. The defendant and the others picked up Ernest and carried him to Sigrid's brown Chevy. They placed him into the trunk and then drove away.

¶ 12 The defendant, Sherman, Eric, and Terry returned to Sigrid's apartment a few hours later. The next day, Friday, the defendant, Sigrid, Sigrid's children, Sherman, and Terry went to stay at the defendant's place in Missouri. The defendant rented a hotel room for Saturday night. The defendant, Sigrid, and her children stayed in the hotel room on Saturday and checked out on Sunday. Sigrid recalled that the defendant had used her car during the weekend they were in Missouri and that she noticed a bleach smell coming from the trunk of her car when they were leaving the hotel. Sigrid looked in the trunk and noted that a piece of the carpet was missing.

¶ 13 During the investigation, an Alton detective discovered that Sigrid's vehicle fit the description of the vehicle that had been used to transport Ernest from Alton Acres. The detective secured consent from Sigrid to search her vehicle. Upon opening the trunk, the detective observed that the trunk was soaking wet and smelled strongly of bleach. He also observed that the spare tire was lying in small pool of bleach water in the tire well and that carpet had been pulled away from the base of

the trunk.

¶ 14 The defendant did not testify during the trial, but the State presented a videotape of the defendant's interview with Alton police officers after he was arrested. The defendant had been given *Miranda* warnings (*Miranda v. Arizona*, 384 U.S. 436 (1966)) and signed a waiver form prior to the interview. The defendant acknowledged that on February 22, 2007, he, Sigrid, Sherman, Eric, and Ernest went to the Hit-N-Run store near Alton Acres. The defendant stated that later that evening, Sigrid told Sherman that Ernest had touched her kids and that Sherman and Ernest "squared off." Sherman, Eric, and a third man began to punch and kick Ernest. Ernest took off running and the three gave chase. The defendant denied participating in the chase. The defendant stated that Eric, Sherman, and the third man returned to Sigrid's apartment, that Ernest returned shortly thereafter, and that Eric began to pound on Ernest again. The defendant stated that he grabbed Ernest and told him to go home. At that point, Ernest pulled a knife. The defendant hit Ernest and knocked him "out cold." The defendant said that Eric and the third man carried Ernest to Sigrid's car and placed him in the trunk. Eric, Sherman, and the third man got into Sigrid's car and drove away. The defendant followed them in his sister's car. The defendant stated that they drove to Wellston. When they arrived, they removed Ernest from the trunk. He was alive at that time. The defendant stated that Eric started to beat Ernest and cut his throat and that Sherman tried to shoot Ernest but that the shotgun failed. The third man beat Ernest with the "gage."

¶ 15 During the interview, the police showed a photo of Terry Ballinger to the defendant, and the defendant identified him as the third man. The defendant stated that he had no idea what had happened to Ernest after the third beating and that Eric later advised that Ernest was dead. The defendant stated that he brought Sigrid and

the girls to a hotel in St. Louis the next day and that while they were in St. Louis, Eric borrowed Sigrid's car. When Eric returned the vehicle, the trunk smelled like bleach and a piece of carpeting was missing.

¶ 16           Upon the completion of closing argument, the trial court issued its verdict. The court found that the defendant was guilty beyond a reasonable doubt of first-degree murder and aggravated kidnapping. The court noted that the evidence established that the defendant was individually culpable and that he was responsible for some acts of others under an accountability theory. The defendant filed a motion for a judgment notwithstanding the verdict and alternatively a new trial. The motion was denied.

¶ 17           During the sentencing hearing, the court found that no factors in mitigation applied, that the defendant had a troubling criminal history with at least two prior felonies, that the current offenses were serious, and that the nature of the victim's death warranted some consideration. The court indicated that it had considered the comments and recommendations of the attorneys, the impact letters from the victim's family, and the letters written on behalf of the defendant. The court noted that the sentencing provisions mandated consecutive sentences where a defendant was convicted of a Class X felony, such as aggravated kidnapping, and where he inflicted severe bodily injury. The trial court sentenced the defendant to consecutive prison terms of 34 years for murder and 7 years for kidnapping. The defendant filed a motion to reduce his sentences. The trial court determined that the sentences were not excessive and denied the defendant's motion to reduce the sentences.

¶ 18           On appeal, the defendant contends that the trial court abused its discretion in sentencing him to consecutive prison terms of 34 years for first-degree murder and 7 years for aggravated kidnapping. The defendant claims that the sentences are

excessive because he had a minor role in the kidnapping and death of the victim and because the offenses were not premeditated. In support, the defendant argues that the evidence revealed that both he and Ernest were intoxicated, that the beatings were prompted by an allegation that Ernest had inappropriately touched Sigrid's daughter, that Ernest's death resulted from an out-of-control fight, that there was no solid evidence to prove that the defendant did anything other than punch Ernest one time, and that the evidence showed that the defendant was an observer and not the instigator of the beatings.

¶ 19 The trial court has broad discretion in imposing a sentence, and great deference is given to its sentencing decision. *People v. Stacey*, 193 Ill. 2d 203, 209, 737 N.E.2d 626, 629 (2000). Generally, the trial court is in a better position than the reviewing court to determine the appropriate sentence because it has the opportunity to weigh factors such as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *Stacey*, 193 Ill. 2d at 209, 737 N.E.2d at 629.

¶ 20 The standard of review is whether a trial court has abused its discretion in imposing a sentence. *People v. Streit*, 142 Ill. 2d 13, 19, 566 N.E.2d 1351, 1353 (1991). A sentence within statutory limits will be deemed excessive and the result of an abuse of the trial court's discretion where the sentence is at great variance with the spirit and the purpose of the law or manifestly disproportionate to the nature of the offense. *People v. Fern*, 189 Ill. 2d 48, 54, 723 N.E.2d 207, 210 (1999). When examining a sentence, a reviewing court should consider the entire record as a whole. *People v. Ward*, 113 Ill. 2d 516, 525-26, 499 N.E.2d 422, 426 (1986).

¶ 21 At the time of these offenses, the term of imprisonment for first-degree murder was a determinable term of not less than 20 years and not more than 60 years (730

ILCS 5/5-8-1(a)(1)(a) (West 2004)), and the term of imprisonment for a Class X felony, such as aggravated kidnapping, was a term of not less than 6 years and not more than 30 years (730 ILCS 5/5-8-1(a)(3) (West 2004)). The record shows that the prison sentence of 34 years was within the range of punishment for first-degree murder and that the prison sentence of 7 years for aggravated kidnapping was a year above the 6-year mandatory minimum for a Class X felony. As the trial court correctly noted, consecutive sentences were required because the defendant was convicted of a Class X felony and he inflicted severe bodily injury on the victim. See 730 ILCS 5/5-8-4(d)(1) (West 2010); *People v. Griffin*, 375 Ill. App. 3d 564, 573-74, 874 N.E.2d 221, 229-30 (2007).

¶ 22 In determining an appropriate sentence, the trial court specifically reviewed the statutory factors in aggravation and mitigation. The court found no applicable factors in mitigation. As to factors in aggravation, the court noted that the defendant had prior felony convictions, including a conviction for aggravated robbery. The court stated that the seriousness of the present offenses should not be deprecated by the imposition of light sentences. The court also considered the evidence regarding the manner and nature of the victim's death. The sentences are not at great variance with the spirit and purpose of the law and are not manifestly disproportionate to the nature of the offenses. There is no abuse of discretion.

¶ 23 Accordingly, the judgment of the circuit court of Madison County is affirmed.

¶ 24 Affirmed.