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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Lake County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 12-CF-877
)	
JESSICA N. BAYNES,)	Honorable
)	Victoria A. Rossetti,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Hutchinson and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion in sentencing defendant to 10 years' imprisonment for aggravated battery with a firearm: defendant could not compare her sentence to a codefendant who was convicted of a lesser offense; despite the mitigating evidence, defendant's sentence was justified by the seriousness of the offense and defendant's special facilitation of it.

¶ 2 Defendant, Jessica N. Baynes, appeals her 10-year sentence for aggravated battery with a firearm, a Class X felony (720 ILCS 5/12-4.2 (a)(1), (b) (West 2010)). She contends that the sentence was excessive when another person involved in the crime pleaded guilty to robbery, a

Class 2 felony (720 ILCS 5/18-1(a), (b) (West 2010)), and received a sentence of 160 days in jail and probation. We affirm.

¶ 3

I. BACKGROUND

¶ 4 On June 18, 2013, defendant pleaded guilty. The factual basis was that, on March 24, 2012, defendant, her boyfriend, and two other men, Jeremy Miller, and an unidentified man, planned to rob Dennis Metz, an employee of the bowling alley where defendant worked. Metz took the proceeds from the bowling alley to the bank, and defendant, having worked at the bowling alley for two years, was familiar with the procedures and timing of Metz's trip to make deposits. She gave the others information about the layout of the bowling alley and its parking lot, and told them where they should park. One of the men procured a stolen van for the robbery, while defendant waited in her own vehicle a few blocks away as a getaway driver. During the robbery, Metz was shot in the back, and he crawled back to the bowling alley. He survived, but was in a coma for a period of time and had lasting medical trauma.

¶ 5 After the robbery, the men drove the stolen van back to defendant's location and got into her vehicle. A witness saw defendant's vehicle, noted the license plate number, and gave a description of it to the police. After speaking to employees of the bowling alley, the police connected the vehicle to defendant. The police went to defendant's home and spoke with her brother, who told them that he overheard the group planning the robbery the day before. Defendant was arrested and admitted to her role in the robbery, but said that no one was supposed to get hurt. The trial court accepted the plea. Defendant's boyfriend pleaded guilty to armed violence and was sentenced to 25 years' incarceration. Miller pleaded guilty to robbery, and was sentenced to 160 days in jail and probation.

¶ 6 At sentencing, Metz's victim impact statement was read. He described severe emotional and mental effects from the shooting. He also had physical impacts, including four surgeries, the removal of broken or shattered ribs, massive blood loss, a stiff lung, the removal of the upper and lower lobes of his right lung, damage to his ears, a punctured eardrum, and a tracheotomy and feeding tubes. He had an arduous three-month period of home care and suffered permanent physical effects. He had posttraumatic stress disorder, had nightmares about being shot and robbed, and was haunted by thoughts of death and losing his family. Because he considered defendant a friendly coworker, his trust in others was shattered. He also suffered a tremendous financial impact and was not able to work full time. The State asked for a 15-year sentence.

¶ 7 Defendant presented evidence that she was a single mother of three children and had graduated from Job Corps and earned her GED. She had steady employment before the robbery and had no criminal history. She provided character evidence that she was a good person who had gotten aligned with the wrong person and that she was deeply sorrowful about what happened. Witnesses described her as someone who had a wonderful heart and could be taken advantage of because she was too nice and naive.

¶ 8 Defendant noted Miller's sentence. Miller had previously been convicted of a misdemeanor, and the factual basis for his plea was that he was the getaway driver at the scene of the robbery. The State said that Miller received a reduced sentence as part of a negotiated plea because the only evidence against him was statements by defendant and her boyfriend and he was willing to testify against the other defendants. Noting that the court was present at a conference on the matter, the State said that defendant was also offered a reduced sentence in exchange for testimony but never took the offer. Defendant responded that she had been willing to testify against the others.

¶ 9 The trial court discussed the mitigating evidence at length. However, the court also noted that defendant provided special knowledge that set the crime in motion. The court also noted that probation was unavailable and that, even if it was available, it would not be appropriate. The court then sentenced defendant to 10 years' incarceration. Defendant's motion to reconsider was denied, and she appeals.

¶ 10 II. ANALYSIS

¶ 11 Defendant contends that her sentence was excessive because she had no criminal background, she had a good reputation, and her sentence was disparate to that of Miller, who was at the scene of the shooting.

¶ 12 “[T]he trial court is in the best position to fashion a sentence that strikes an appropriate balance between the goals of protecting society and rehabilitating the defendant.” *People v. Risley*, 359 Ill. App. 3d 918, 920 (2005). Thus, we may not disturb a sentence within the applicable sentencing range unless the trial court abused its discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-10 (2000). A sentence is an abuse of discretion only if it is at great variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense. *Id.* at 210. We may not substitute our judgment for that of the trial court merely because we might weigh the pertinent factors differently. *Id.* at 209.

¶ 13 In determining an appropriate sentence, relevant considerations include the nature of the crime, the protection of the public, deterrence, and punishment, as well as the defendant's rehabilitative prospects. *People v. Kolzow*, 301 Ill. App. 3d 1, 8 (1998). The weight to be attributed to each factor in aggravation and mitigation depends upon the particular circumstances of the case. *Id.* There is a presumption that the trial court considered all relevant factors in determining a sentence, and that presumption will not be overcome without explicit evidence

from the record that the trial court did not consider mitigating factors or relied on improper aggravating factors. *People v. Payne*, 294 Ill. App. 3d 254, 260 (1998).

¶ 14 Generally, similarly situated defendants should not receive grossly disparate sentences. *People v. Tate*, 122 Ill. App. 3d 660, 668 (1984). However, “[c]odefendants are not similarly situated if they have been convicted of different crimes.” *People v. Lusietto*, 316 Ill. App. 3d 143, 146 (2000). Further, “it has been firmly established that the sentence of a codefendant or accomplice pursuant to the entry of a plea in return for his or her testimony, provides no valid basis for comparison.” *People v. White*, 134 Ill. App. 3d 262, 283 (1985).

¶ 15 Here, defendant and Miller were not similarly situated. Defendant was convicted of aggravated battery with a firearm, a Class X felony (720 ILCS 5/12-4.2 (a)(1), (b) (West 2010)), with a sentencing range of 6 to 30 years’ incarceration or 30 to 60 years for an extended term (730 ILCS 5/5-4.5-25(a) (West 2010)). Probation was not permissible for the offense. 730 ILCS 5/5-4.5-25(d) (West 2010). Miller, however, was convicted of robbery, a Class 2 felony (720 ILCS 5/18-1(a), (b) (West 2010)), with a sentencing range of 3 to 7 years’ incarceration or 7 to 14 years for an extended term (730 ILCS 5/5-4.5-35(a) (West 2010)). That offense was also subject to probation. 730 ILCS 5/5-4.5-35(d) (West 2010). Further, Miller pleaded guilty to a reduced charge based on his agreement to be available to testify against the other defendants. Defendant notes that Miller did not actually testify against anyone, but she ignores that they were also not similarly situated because they were convicted of different crimes.

¶ 16 As to other factors, the trial court carefully considered the mitigating evidence but also noted that defendant utilized her special knowledge of the business and Metz’s routine to facilitate the crime, which led to serious injury. Yet, the trial court sentenced defendant to a term well within the low half of the statutory range. Given the severity of the crime and defendant’s

unique role in it, the trial court did not abuse its discretion in sentencing defendant to 10 years' incarceration.

¶ 17

III. CONCLUSION

The trial court did not abuse its discretion when it sentenced defendant to 10 years' incarceration. Accordingly, the judgment of the circuit court of Lake County is affirmed. As part of our judgment, we grant the State's request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2014); see also *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 18 Affirmed.