

2018 IL App (1st) 163419-U
No. 1-16-3419
June 14, 2018

SECOND DIVISION

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 DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	Of Cook County.
Plaintiff-Appellee,)	
)	No. 91 CR 2906
v.)	
)	The Honorable
MICHAEL COOKS,)	Michael B. McHale,
)	Judge Presiding.
Defendant-Appellant.)	

JUSTICE NEVILLE delivered the judgment of the court.
Presiding Justice Mason and Justice Pucinski concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court correctly held that statutes authorized a sentence of life in prison for two murders the defendant committed when he was 14 years old. The trial court did not violate the defendant's constitutional rights when it imposed a sentence of 60 years in prison despite the defendant's considerable evidence of rehabilitation.

¶ 2 The trial court sentenced Michael Cooks to 60 years in prison for two murders Cooks committed when he was 14 years old. In this appeal, we hold that the trial court correctly found that the applicable statute authorized a sentence of life in prison, and we cannot say

that the sentence violated Cooks's constitutional rights. Accordingly, we affirm the trial court's judgment.

¶ 3

BACKGROUND

¶ 4

On September 6, 1990, Cooks shot and killed two men. The trial court rejected Cooks's argument that he acted in self-defense. Because Cooks killed two men, the court sentenced Cooks to life in prison. *People v. Cooks*, 271 Ill. App. 3d 25, 35 (1995).

¶ 5

Cooks filed a postconviction petition in 2011, seeking resentencing based on *Miller v. Alabama*, 567 U.S. 460 (2012). The appellate court directed the trial court to resentence Cooks. *People v. Cooks*, 2012 IL App (1st) 112991-U.

¶ 6

At the resentencing hearing, the trial court accepted the State's argument that the court could sentence Cooks to life in prison, even though Cooks was only 14 years old when he committed the murders. Cooks presented reports from a developmental psychologist, a social worker, and a professor of criminology, who all presented evidence of Cooks's impressive rehabilitation. Cooks obtained his G.E.D. while in prison, and he had avoided fights and serious infractions of the rules during his long stay in prison. His work supervisor said in an affidavit that Cooks was an outstanding employee who "followed directions and completed his duties in a professional and timely manner," and "handled his responsibilities with a calm demeanor."

¶ 7

The trial court said:

"This crime was tragic and senseless ***.

*** [Y]ou are not the only person that lived in Englewood in the '90s and was subjected to a very bad beginning in life and not everyone has done the horrific and senseless act that you did ***.

However, *** I was impressed and found compelling the expert testimony from the Defense witnesses. The fact that you did live in a war zone environment. The fact that your father did physically abuse you. The fact that your mother abandoned you. I do take that into consideration.

I also take into consideration, unless I missed it, I didn't see much of any violent behavior in your 26 years in IDOC ***. [It is] shockingly unusual actually for someone to be in IDOC that long and not have violent disciplinary tickets ***.

I also do take into account that you renounced your gang membership and your association with gangs *** which is a very, very difficult thing to do when you are in prison.

I know you took classes. I know you got your GED. I know that you are an avid reader, that you have tried to improve yourself. I have taken all of that into consideration.

I do think that you've changed from a 14-year-old person that you were. *** You chose a different way, and I believe you are sorry ***.

You've served 26 years in prison. I still think a fair sentence is 60 years, which is really 30 years because of day for day, which means you will have four more to go and you will be 44 years old [when you leave prison]."

¶ 8 The court denied Cooks's motion to reconsider the sentence. Cooks now appeals.

¶ 9 ANALYSIS

¶ 10 Cooks argues first that the trial court used the wrong sentencing range when it resentenced him. The trial court held that section 5-8-1(a)(1)(b) of the Unified Code of Corrections permitted it to sentence Cooks to life in prison. Ill. Rev. Stat. 1989, ch. 38, ¶ 1005-8-1(a)(1)(b). The applicable version of section 5-8-1 provides that when a court sentences a defendant for first degree murder, "if the court finds *** that any of the aggravating factors listed in subsection (b) of Section 9-1 of the Criminal Code of 1961 are present, the court may sentence the defendant to a term of natural life imprisonment." Ill. Rev. Stat. 1989, ch. 38, ¶ 1005-8-1(a)(1)(b).

¶ 11 Section 9-1(b)(3) of the applicable version of the Criminal Code provides:

"A defendant who at the time of the commission of the offense has attained the age of 18 or more and who has been found guilty of first degree murder may be sentenced to death if: *** 3. the defendant has been convicted of murdering two or more individuals *** so long as the deaths were the result of either an intent to kill more than one person or of separate acts which the defendant knew would cause death or create a strong probability of death or great bodily harm." Ill. Rev. Stat. 1989, ch. 38, ¶ 9-1(b)(3).

¶ 12 Cooks contends that multiple murders cannot authorize a sentence of life in prison unless the defendant was at least 18 years old at the time of the offenses. But in *People v. Holman*, 2017 IL 120655 ¶ 6, our supreme court held that the multiple murders factor of section 9-1(b)(3) authorized a sentence of life in prison on a juvenile defendant. See also *People v. Luciano*, 2013 IL 110792 ¶ 63. Cooks contends that, under *Miller*, the court must not impose a life sentence unless the defendant's actions show incorrigibility. See *Holman*, 2017 IL 120655 ¶ 46. But as a matter of statutory interpretation, the reference in section 5-8-1(a)(1)(b) to "the aggravating factors listed in subsection (b) of Section 9-1" embraces the commission of multiple murders, without more, as grounds for a sentence of life in prison. The trial court did not base its sentence on a misunderstanding of the applicable sentencing range.

¶ 13 The trial court sentenced Cooks not to life but to 60 years in prison. Generally, this court defers to the trial court's sentencing decisions. *People v. Fern*, 189 Ill. 2d 48, 53 (1999).

¶ 14 The *Fern* court said:

"The trial court must base its sentencing determination on the particular circumstances of each case, considering such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. ***

In considering the propriety of a sentence, the reviewing court must proceed with great caution and must not substitute its judgment for that of the trial court merely because it would have weighed the factors differently. [Citations.] A sentence within statutory limits will not be deemed excessive unless it is greatly at variance

with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense." *Fern*, 189 Ill. 2d at 53-54.

¶ 15 Cooks argues that the 60 year sentence imposed here violates the proportionate penalties clause of the Illinois constitution. Ill. Const. 1970, art. 1 § 11. A sentence violates the proportionate penalties clause if the sentence is "cruel, degrading, or so wholly disproportionate to the offense committed as to shock the moral sense of the community." *People v. Sharpe*, 216 Ill. 2d 481, 487 (2005). A defendant who challenges a sentence under the proportionate penalties clause "contends that the penalty in question was not determined according to the seriousness of the offense." *Sharpe*, 216 Ill. 2d at 487. "To determine whether a penalty shocks the moral sense of the community, we must consider objective evidence as well as the community's changing standard of moral decency." *People v. Hernandez*, 382 Ill. App. 3d 726, 727 (2008).

¶ 16 Sentences much longer than the sentence imposed on Cooks have not shocked courts in a number of cases involving juveniles who committed only one murder. See *People v. Glazier*, 2015 IL App (5th) 120401 (60 years without day-for-day credit); *People v. Jones*, 2014 IL App (1st) 120927 (75 years without day-for-day credit); *People v. Cavazos*, 2015 IL App (2d) 120444 (60 years without day-for-day credit); *People v. Jackson*, 2016 IL App (1st) 143025 (50 years without day-for-day credit).

¶ 17 We agree with Cooks that he has presented persuasive evidence that an especially cruel childhood contributed to the crimes, and he has rehabilitated himself. However, we cannot say that the trial court did not determine the penalty according to the seriousness of the offense, and we cannot say that the penalty is "so wholly disproportionate to the offense

committed as to shock the moral sense of the community." *Sharpe*, 216 Ill. 2d at 487. Applying the review standards established in *Fern* and *Sharpe*, we must affirm the trial court's judgment.

¶ 18

CONCLUSION

¶ 19

The trial court did not violate Cooks's constitutional rights when it sentenced him to 60 years in prison for two murders. Accordingly, we affirm the trial court's judgment.

¶ 20

Affirmed.