2019 IL App (1st) 160703-U

No. 1-16-0703

SIXTH DIVISION
JULY 26, 2019

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 9948
	)	
MAURICE JEFFERSON,	)	Honorable
	)	Joseph M. Claps,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Delort and Justice Connors concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's 53-year cumulative sentence for murder and home invasion where the record establishes that the trial court considered defendant's "strong provocation" argument and all relevant factors in aggravation and mitigation.

¶ 2 Following a bench trial, defendant Maurice Jefferson was convicted of first degree murder (720 ILCS 5/9-1(a)(1) (West 2010)) and home invasion (720 ILCS 5/12-11(a)(1) (West 2010)) and was sentenced to consecutive terms of 39 years' imprisonment for the murder charge and 14 years' imprisonment for the home invasion charge. On appeal, defendant argues that the trial court abused its discretion in sentencing him where it failed to adequately consider certain

mitigating factors, most seriously defendant's "strong provocation" because defendant's actions were motivated by the victim's abusive acts against defendant's son. We affirm the judgment of the circuit court of Cook County.

¶ 3 The State initially charged defendant with 22 counts but proceeded to trial on only 5 counts of first degree murder and 4 counts of home invasion, all stemming from the death of Christopher Williams due to a beating which occurred on February 27, 2011, in Williams' Chicago home.[1]

¶ 4 The evidence at trial showed that defendant is the father of four children with Chaunese Lott, the oldest of whom is Maurice J. Jr. (Junior), who was 12 years old in February 2011 and learning disabled. In 2011, Chaunese and the children were living with Williams in Chicago. On February 27, 2011, defendant learned from Tiffany Lott, Chaunese's sister, that Williams had "choke-slammed" Junior and hit him with a broomstick.[2] Later that night, defendant and four other men went to Williams' home and beat him. Williams was taken to Mount Sinai Hospital, and was declared "brain dead" on March 5, 2011.

¶ 5 Tiffany testified that, approximately a week before the February 27, 2011, incident, Junior told her that Williams "hit him with a stick and had threw the TV and took all of his clothes and stuff out of the drawer and told him to get out." At some point, she learned that Williams had also "choke-slammed" Junior. Tiffany defined "choke-slamming" as when an individual "grab[s] someone by their neck and slam[s] them on the ground." To Tiffany's knowledge, this was the first abusive incident that involved Chaunese's children. On February

[1] Codefendants Brandon Jones and Deautry Thompson were tried simultaneously but separately. They are not parties to this appeal.

[2] Because Chaunese Lott and Tiffany Lott share the same last name, we will refer to them by their first names.

27, 2011, Tiffany went to her aunt's house, where her son and Junior had spent the weekend. Following a family discussion regarding the safety of Chaunese's children, Tiffany drove to Williams' apartment to remove Chaunese's other three children from the household. She had her son and Junior in the car. On the way to the apartment, Tiffany called defendant, who she knew by his nickname "Juicy," and told him about the altercation between Junior and Williams. She asked him to assist her in getting the children and he said he would meet her at Williams' apartment.

¶ 6 When defendant did not arrive, Tiffany picked up her "god sister" Keisha and brother Roger to go with her, because she "didn't want to go up there by [herself]." They arrived at Williams and Chaunese's apartment around 6 p.m. Williams let them in and allowed them to take Chaunese's three daughters. While in the apartment, Keisha called defendant, who spoke with Williams on her phone. Tiffany testified she could not hear what was being said but the men were "aggressive," "going back and forth with each other," and exchanging "angry words."

¶ 7 As Tiffany was driving the children to her home, she called defendant and told him she had the children, was taking them to her house, and he no longer needed to come. Defendant then called Tiffany at her home to ask if they had arrived safely. He told her that he was going to come over, but never did. Instead, in the early morning hours of February 28, defendant called Tiffany and told her "they had fucked [Williams] up and that they drug him down the stairs, and he didn't know if [Williams] was dead or alive." Tiffany was surprised by what defendant had done because the children were safe, and asked him why he did it. Defendant responded by asking her what did she expect him to do?

¶ 8 Williams' uncle, Charles Anderson, testified that he was at Williams' apartment on the day of the incident. He was watching television with Williams when, at 10:45 p.m., they heard a knock at the door. Williams barely opened it and people on the other side of the door began pushing open the door. Anderson testified that he tried to help Williams close the door, but the people pushing the door overpowered him. Anderson saw the men fight, and Williams tried to fight back with a baseball bat, but the men overpowered him and took the baseball bat from him. Anderson testified that he saw the men hit Williams with their fists, and one man hit him with the baseball bat. Anderson left and called the police, and when he returned, saw blood in the hallway, on the floor, and on the walls. Anderson testified that he saw Williams sitting on the floor "bleeding all over the place." Williams told Anderson "Juicy" did it.

¶ 9 Williams' daughter, Ariyonnah W., was 12 years old on February 27, 2011. She was staying with Williams that day. Her uncle was also there. Around 6 p.m., Tiffany and others arrived and then left with several children. Around 10:30 to 10:45 p.m., Ariyonnah was in Williams' bedroom when she saw Williams answer a knock at the door. She saw four men, including the children's father "Juicy," rush into the apartment. The men fought and ended up in the bedroom with her. The men were punching and kicking her father as he lay on the bed, and one of the men, whom she identified as Brandon Jones, hit Williams with a baseball bat "[m]ultiple times." Ariyonnah called the police. The men dragged Williams out of the bedroom by his feet to the second floor landing, where Jones hit Williams again on the head with the bat. Ariyonnah testified that when she saw her father on the landing he looked "bloody."

¶ 10 Photographs of Williams' apartment were admitted into evidence, which showed the bedroom, with blood on the headboard and pillows, a trail of blood leading from the bedroom to

the front door of the apartment and out onto the landing in the hallway. There was also blood on the stairs and on the walls of the staircase.

¶ 11 Doctor Eimad Zakariya, an assistant Cook County medical examiner, testified that he reviewed the medical and autopsy records for Williams. He explained that Williams had numerous injuries when he was admitted to the hospital, including lacerations, abrasions, and a hematoma around his left eye. Williams also had intracranial injuries consisting of skull fractures and associated bleeding. A CT scan showed hemorrhage inside the skull, and a swollen brain which required surgery. Williams died on March 5, 2011. Doctor Zarkariya testified that, in his opinion, the cause of death was blunt head trauma, caused by significant force consistent with striking or being struck with a hard object.

¶ 12 Detective Joseph McCarthy testified that defendant was arrested and on March 1, 2011, gave a handwritten statement to an assistant state's attorney, the statement was read into the record at trial. In the statement, defendant stated that he knew from talking to Tiffany at 6 p.m. when she picked up the other children that Junior was "okay." Twenty to thirty minutes later, he spoke with Williams on Keisha's phone while she was at William's apartment. The call got "heated" and defendant told Williams to "get his guys together" because defendant was coming. Around 9 p.m., defendant had "made up his mind that he was going over to fight" Williams for what he did to Junior and started gathering men to go with him as "backup," including "Brandon [Jones]." On the way to Williams' apartment around 10 p.m., defendant told the other men that he was "tired of [Williams] putting his hands on Maurice Junior [and] *** he was going to beat [Williams'] ass." He knew his children were not there because Tiffany and Keisha had told him that they had taken them to safety.

¶ 13 Defendant stated that, when he got to the apartment, he stood to the side of the door and told "Tim" to knock on the door and ask for Chaunese. Defendant knew Williams would not open the door if he saw defendant. When Williams opened the door, defendant reached in and "grabbed" Williams' shirt. Williams tried to push the door closed but defendant's arm kept it open. Jones came upstairs and helped defendant push the door open. An older man and a young girl were in the apartment. Williams ran, stating "get my gun." Defendant tackled him in the bedroom, and began punching him. Williams "never hit" defendant and defendant "never saw" Williams "hit any of the guys." As defendant was punching Williams, Jones hit Williams four times in the head with a baseball bat he had taken from Williams. Defendant dragged Williams into the outside hallway and pulled him down the stairs, intending to beat Williams "more." However, Jones "grabbed" him and the men left.

¶ 14 The parties stipulated that DNA recovered from a bottle at Williams' apartment matched the DNA profile of defendant. The parties also stipulated that Tiffany and defendant's cell phone records showed several phone calls made between them on February 27, 2011 and February 28, 2011, including two phone calls from defendant at 11:21 p.m. and 12:30 a.m.

¶ 15 The trial court denied defendant's motion for a directed finding.

¶ 16 Defendant testified that he knew of many times Williams had physically abused his son before February 27, 2011, and had "six or seven" prior arguments with Williams regarding this mistreatment. Defendant had previously physically fought Williams before the incident on February 27, 2011. Tiffany called him that day and told him "[Williams] did it again" and she was going to get the children from his apartment that day. Defendant testified that Tiffany "led [him] to believe that [his] son was in grave danger." Defendant also admitted that, before he

went to Williams' apartment, Tiffany called him and told him that she had picked the children up and Junior was okay.

¶ 17 When Keisha called defendant from Williams' apartment, he spoke to Williams on her phone and asked Williams about his behavior toward Junior. After initially denying that the incident occurred, Williams told defendant "fuck you, this is my house. I'll do what the fuck I want to do in my house." Defendant then told him to "get his guys" because defendant would be coming to his apartment. Defendant testified the phone conversation was "heated," and during the conversation, "all [he] saw was red," and he knew he wanted to confront Williams.

¶ 18 After 10:00 p.m., defendant arrived at Williams' building with "Deautry, [Jones], JB, [and] Tim." Defendant went inside and knocked on Williams' door. Williams opened the door, the men "exchanged words," and Williams tried to close the door. Defendant grabbed Williams' shirt but Williams pulled away and slammed the door on defendant's arm. Defendant's arm was stuck in the door and he could not pull it out because Williams was pushing on the door from the inside. Jones helped defendant push the door open to free his arm. The door "just swung open" as no one was pushing it from inside anymore and, due to "momentum," Jones and defendant ended up inside the apartment.

¶ 19 Williams was standing near the doorway with an aluminum bat in a "batting stance." He swung the bat at Jones, but did not hit him, and then said "get my gun" three times and moved toward the bedroom. Defendant pursued Williams into the bedroom, tackled him onto the bed, and they began "throwing some wild punches" at each other. At that point, Jones hit Williams with the baseball bat twice on the head. Defendant pulled Williams off the bed and into the

hallway. The men then left. Defendant had no weapons with him when he went to confront Williams, and did not go to Williams' apartment with an intent to kill.

¶ 20 On cross-examination, defendant acknowledged that, before he went to Williams' apartment, he knew from Tiffany that Junior was all right. Defendant went to Williams to confront him, not to "beat his ass." He acknowledged that his written statement did not reflect that he knew of prior incidents of abuse by Williams or that Williams told him on the phone that Williams would do whatever he wanted in his own house. He also acknowledged that, in the statement, he said he told his "guys" he was going to beat Williams' ass and that he told Tim to knock on the door because he knew Williams would not open the door to defendant. Defendant testified that there were a lot of things in the statement that he never said in the interrogation room and that he signed the statement without reading it.

¶ 21 In rebuttal, the State entered into evidence certified copies of defendant's prior convictions for possession of a controlled substance in 2007, and unlawful use of a weapon in 2003.

¶ 22 The trial court found defendant guilty of all counts of first-degree murder and home invasion. Addressing defendant's closing argument that Junior's beating provided sufficient provocation to reduce the murder charges to second-degree murder, the court stated it had reviewed the mitigating evidence and, "in [the court's] evaluation of this evidence it's not even close in terms of provocation, not even close. This is nothing more than pure revenge. And [the court] choose[s] not to reduce this to second degree." The court denied defendant's motion for a new trial and proceeded to sentencing.

¶ 23 At sentencing, defendant's amended presentence investigation report (PSI) showed he had prior adult convictions for aggravated DUI, possession of a controlled substance, unlawful use of a weapon, and delivery of a controlled substance. In the PSI, defendant stated that he had a great relationship with his mother, no relationship with his father, left school to seek employment because his girlfriend became pregnant, and that he had five children.

¶ 24 In aggravation, the State argued Williams would be alive but for defendant bringing Jones, who caused the most significant injuries to Williams with the baseball bat, to the apartment. The State noted that the beating was defendant's idea and that, although Junior was safe, defendant still felt he had to teach Williams a lesson and felt it was "an appropriate justice to come and beat" Williams to death. Defendant physically participated in the beating and "did his part" as Williams was bleeding "over that entire apartment building."

¶ 25 In mitigation, defense counsel argued "there was a significant provocation" which the court could consider in mitigation, and requested a sentence at or near the minimum. In particular, counsel highlighted the fact that Junior had been abused multiple times in the past, and defendant had engaged in "fist fights" with Williams about this matter previously. Further, defense counsel argued that defendant never intended to kill Williams, and never instructed his men to kill him, despite Jones' beating of Williams with the baseball bat, which likely caused his death. Defense counsel tendered several letters to the court from defendant's friends and family members regarding defendant's character and remorse concerning the situation.

¶ 26 In allocution, defendant apologized to Williams' family and told the court he "made a bad decision that night based off of emotions" and he was sorry. Defendant also told the court he was not a "vigilante" but was a loving father and an "average US citizen."

¶ 27 The court merged the counts and sentenced defendant to consecutive sentences of 39 years on one count of first degree murder and 14 years on one count of home invasion. In sentencing, it stated it had read the letters, and considered the factors in aggravation and mitigation, the arguments, and the PSI. The court addressed defendant and told him "none of this had to happen." The court elaborated:

> "This excuse about your son is nothing more than an excuse for violence. All you had to do was call the police. This gentleman would have been arrested and your son would be safe as opposed to the death of an individual that did not have to happen. You took the law into your own hands. More importantly in aggravation you're the reason the other people were there. You're the reason.
>
> They had no reason to be there except for you. None. And to tell me that you didn't intend for any of this to happen. When you break into someone's home, nothing good could come out of that. Nothing. And that's what you all did."

The court denied defendant's motion to reconsider sentence.

¶ 28 On appeal, defendant argues his sentence is excessive because the trial court failed to properly consider the mitigating factor of "strong provocation" despite the fact that defendant's actions were motivated by Williams' "brutal assault" on defendant's "vulnerable" son. Defendant requests that we remand for a new sentencing hearing or reduce his sentence to "an appropriate term."

¶ 29 As an initial matter, the State argues defendant forfeited his claim of sentencing error because, although defendant filed a motion to reconsider sentence, he did not do so with sufficient specificity or raise an objection at sentencing. See *People v. Hillier*, 237 Ill. 2d 539, 544-45 (2010) (to preserve claims for appeal, a defendant must make both a contemporaneous objection and file a written postsentencing motion raising the issue). In mitigation, defendant emphasized to the court that he was provoked by Williams. Defense counsel also filed a motion to reconsider sentence. Although defendant's motion was cursory and did not specifically raise the provocation factor, in arguing the motion defense counsel did "adopt and reiterate" the arguments he made at sentencing and trial, which included this extensive argument on defendant's provocation at the time of the incident. Regardless, we need not decide whether defendant forfeited his sentencing claim because we find no error in the trial court's sentencing decision.

¶ 30 A trial court's sentencing decision is reviewed under the abuse of discretion standard. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). A reviewing court will find an abuse of discretion where the sentence is " 'greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.' " *Id*. The trial court has broad discretion in imposing a sentence, and its sentencing decisions are afforded great deference, because the trial judge "observed the defendant and the proceedings," and is in a better position to weigh factors such as defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *Id*. The reviewing court " 'must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently.' " *Id.* at 213 (quoting *People v. Stacey*, 193 Ill. 2d 203, 209 (2000)). However, we must interpret sentencing

laws "in accord with common sense and reason" and not merely rubber stamp the trial court's judgment, so as to "avoid an absurd or unduly harsh sentence." *People v. Allen*, 2017 IL App (1st) 151540, ¶ 1.

¶ 31 A sentence that falls within the statutory range is presumed to be proper. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46. In this case, defendant was convicted of first degree murder and home invasion. The sentence for first degree murder ranges from 20 to 60 years and home invasion is a Class X felony, with a sentencing range of 6 to 30 years. 730 ILCS 5/5-4.5-20(a)) (West 2010); 720 ILCS 5/12-11(a)(1), (c) (West 2010); 730 ILCS 5/5-4.5-25(a) (West 2010). Sentences for multiple offenses are to be served consecutively where one offense was first-degree murder and the defendant inflicted severe bodily harm. 730 ILCS 5/5-8-4(d)(1) (West 2010). Defendant's consecutive sentences of 39 years and 14 years fall within these statutory guidelines, and are therefore presumed to be proper.

¶ 32 Nevertheless, defendant argues the trial court abused its sentencing discretion by failing to adequately weigh certain mitigating factors, specifically defendant's "strong provocation" at the time of the incident.

¶ 33 A sentence should reflect both the seriousness of the offense and the objective of restoring the offender to useful citizenship. Ill. Const. 1970, art. I § 11*; People v. Neasom*, 2017 IL App (1st) 143875, ¶ 48. While a trial court must consider all factors in aggravation and mitigation, the seriousness of the offense, rather than mitigating evidence, is the most important factor in sentencing. *People v. Kelley*, 2015 IL App (1st) 132782, ¶ 94. "Strong provocation" is a mitigating factor to be considered at sentencing. 730 ILCS 5/5-5-3.1(a)(3) (West 2010). The trial court is presumed to consider "all relevant factors and any mitigation evidence presented"

(*People v. Jackson*, 2014 IL App (1st) 123258, ¶ 48), but has no obligation to recite and assign a value to each factor (*People v. Perkins*, 408 Ill. App. 3d 752, 763 (2011)). Where, as here, a defendant argues that the court failed to properly consider certain factors, the defendant "must make an affirmative showing that the sentencing court did not consider relevant factors." *People v. Burton*, 2015 IL App (1st) 131600, ¶ 38.

¶ 34 Defendant cannot make such a showing here. "Serious provocation" is a mitigating factor to be considered at trial in reducing a charge of first-degree murder to second-degree. 720 ILCS 5/9-2(a)(1) (West 2010). The "strong provocation" to be considered at sentencing differs from the "serious provocation" to be considered at trial in that "strong provocation" "encompasses a wider range of conduct" than "serious provocation." *People v. Powell*, 2013 IL App (1st) 111654, ¶ 36. The record establishes that the trial court heard defense counsel's extensive argument regarding defendant's state of mind and strong provocation at the time of the incident, and directly addressed it in rendering its sentence. It specifically rejected the assertion that defendant's actions were provoked by Williams' treatment of his son, finding his conduct was "nothing more than excuse for violence." The trial court had presided over the trial and was well aware of the facts of the case. After hearing the trial evidence, it had declined to reduce the first-degree murder offense to second-degree murder, concluding the evidence was "not even close in term[s] of provocation," and defendant's actions were "nothing more than pure revenge." Considering that same evidence in mitigation at sentencing, the trial court came to essentially the same conclusion, finding that there was no strong provocation for defendant's conduct. As the reviewing court, we defer to the judgment of the trial court on sentencing, especially where the sentence is clearly within the guidelines. The trial court observed defendant and the proceedings

personally, and was in the best position to judge defendant's credibility, demeanor, and emotional state vis-à-vis the events of February 27, 2011. See *Alexander*, 239 Ill. 2d at 212. While we may have given more weight to defense counsel's mitigation argument, we cannot overturn the trial judge's sentence simply because he imposed a sentence that we would not have imposed. Thus, we will not substitute our judgment for that of the trial court by reweighing these mitigating factors on review. See *id.* at 213.

¶ 35 Defendant argues extensively that the evidence presented at trial demonstrates that the trial court improperly failed to consider that defendant's "vigilante justice" was a response to the strong provocation of William's "brutal assault" on his child. There is no question that, as defendant argues, defendant's actions were neither casual nor random but, instead, were motivated by his anger at Williams and that strong provocation can arise from substantial physical injury or assault on a child. See *People v. Calhoun*, 404 Ill. App. 3d 362, 388-89 (2010) (holding that the trial court should have considered "strong provocation" as a mitigating factor in sentencing of a mother who killed the man whom she discovered had sexually assaulted her infant daughter). However, "strong provocation" is direct and immediate provocation. *Powell*, 2013 IL App (1st) 111654, ¶ 36. Here, the trial court observed the proceedings, listened to the witnesses, and reviewed the evidence in determining whether defendant was actually acting under a strong provocation at the time of the incident. It was for the trial court to determine whether the defendant's actions were in immediate or direct response to Williams "assault" on Junior. We will not reweigh the court's determination that the evidence did not support finding strong provocation for the offense.

¶ 36 Defendant argues that the fact that he received a 53-year sentence while Jones, who actually delivered the killing blows, received a 31-year sentence, provides evidence that the trial court did not adequately consider defendant's "serious provocation." However, the trial court emphasized in aggravation that defendant was the *only reason* that the other men, including Jones, were present that night and that defendant was responsible for the actions taken by Jones and the other men. Any disparity between the sentences of co-defendants "may be justified by the relative character and history of the codefendants, the degree of culpability, rehabilitative potential, or a more serious criminal record." *People v. Martinez*, 372 Ill. App. 3d 750, 760 (2007). Here, as shown by its comments in sentencing defendant, the trial court clearly considered defendant to have a higher degree of culpability, which warranted a greater sentence than that imposed upon Jones. In sum, defendant has failed to show the court did not consider "strong provocation" in mitigation.

¶ 37 Defendant also asserts the trial court did not consider whether "defendant's criminal conduct was the result of circumstances likely to recur" (730 ILCS 5/5-5-3.1(a)(8) (West 2010)), which is a mitigating factor to be considered at sentencing. The court did not specifically mention this factor at sentencing. However, it not only stated that it considered all mitigating factors, it is presumed to have considered all mitigating factors and is not required to specifically mention those factors at sentencing. *Jackson*, 2014 IL App (1st) 123258, ¶ 48; *Perkins*, 408 Ill. App. 3d at 763. Defendant makes only a cursory assertion that the court did not consider this factor and points to nothing in the record to affirmatively rebut the presumption that the court did consider whether the offense was the result of circumstances unlikely to recur.

¶ 38 We reiterate that while we may have weighed the mitigating factors differently, thereby leading to a different sentence, we cannot say the trial court abused its discretion in sentencing defendant to 39 and 14 years consecutively.

¶ 39 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 40 Affirmed.