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2019 IL App (3d) 170088-U

Order filed April 26, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-17-0088
)	Circuit No. 13-CF-2096
FRANCIS P. ZABALA,)	
Defendant-Appellant.)	Honorable Amy M. Bertani-Tomczak, Judge, Presiding.

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

ORDER

¶ 1 *Held:* Defendant's eight-year sentence of imprisonment for involuntary manslaughter was not excessive.

¶ 2 Defendant, Francis P. Zabala, appeals his conviction for involuntary manslaughter.

Specifically, defendant argues that his sentence of eight years' imprisonment is excessive in light of his lack of criminal history, support from family and friends, history of full-time employment, and remorse. We affirm.

I. BACKGROUND

¶ 3

¶ 4 Defendant was charged with two counts of first degree murder (720 ILCS 5/9-1(a)(1), (a)(2) (West 2012)) for causing the death of Robert Meredith.

¶ 5

A jury trial was held. The evidence at the trial showed that Meredith was 49 years old at the time of the incident and was mentally disabled. Defendant’s wife, Janice Zabala, was Meredith’s sister. Janice testified that Meredith had “the mentality of probably maybe a nine-year-old.” Janice stated that Meredith was able to feed and bathe himself. Meredith had lived with his parents until they died. He then began living with defendant, Janice, their adult daughter, and their teenage son.

¶ 6

Defendant and Janice testified that Meredith got along well with everyone in the family for approximately two months after he moved in with them. After that, Meredith’s behavior became very disruptive. Janice testified that Meredith would hit people, break and steal things, and make messes. Defendant testified that Meredith would sleep all day and stay up all night. Meredith would enter the bedrooms of defendant’s family members while they were sleeping and wake them up. At the time of the incident, Janice was in the process of having Meredith placed in a home for mentally disabled individuals.

¶ 7

Defendant testified that on the day of the incident, he and Janice were watching television. Meredith was being disruptive, so Janice told him to sit on the floor for a time-out. Meredith sat down on the floor and said he had to use the bathroom. Janice and defendant told Meredith to go, and he got up and entered the bathroom. Defendant heard Meredith flush the toilet and wash his hands. Meredith sat back down on the floor. Meredith asked to use the bathroom three to four more times. Defendant and Janice let him go each time. After the final

time Meredith asked to use the bathroom, defendant saw that Meredith had urinated in his pants and on the carpet. Janice yelled at Meredith and went upstairs to get him some clean clothes.

¶ 8 Defendant retrieved a carpet cleaning machine. Janice was in the bathroom with Meredith. Defendant began cleaning the carpet. Meredith exited the bathroom, and defendant said that Meredith would have to clean up the urine. Based on defendant's experiences with Meredith, it seemed that Meredith was capable of operating the carpet cleaning machine. Defendant handed the machine to Meredith, and Meredith threw it down. Meredith said he would not clean the urine. Meredith then began trying to operate the carpet cleaning machine, but he was pressing it down so hard that defendant believed it would break. Defendant told Meredith not to push it so hard, and Meredith said he would do it his way.

¶ 9 Defendant retrieved a tomato stake from the garage. Defendant hit Meredith with the stake several times. Meredith laughed and said it did not hurt. Eventually, defendant told Meredith to sit on the couch. Defendant said that he would clean up the urine. Meredith began laughing and repeatedly saying that he did not have to clean it up. Defendant then punched Meredith in the back several times with a closed fist. Janice told defendant to stop, and he did. Defendant did not intend to hurt Meredith. Defendant said that he did not believe punching Meredith in the back would hurt him.

¶ 10 Meredith sat down and watched television with Janice while defendant cleaned the urine. Meredith got up to use the bathroom. Defendant heard a loud noise in the bathroom. Janice entered the bathroom and saw that Meredith had fallen down. Meredith exited the bathroom, and Janice told him to sit down in a chair. Meredith sat down and raised his hand as though he was going to punch Janice. Defendant then saw Meredith slide down the chair. Defendant told Janice

to call 911 and performed CPR on Meredith. Eventually, paramedics came and took Meredith to the hospital.

¶ 11 Janice gave similar testimony regarding the incident. Janice testified that defendant struck Meredith with a wooden slat from a broken rocking chair rather than a tomato stake. Janice stated that defendant stopped hitting Meredith when the slat broke.

¶ 12 A paramedic testified that Meredith had no pulse or heartbeat when he arrived at the house. The paramedics transported Meredith to the hospital. Later that day, a deputy coroner transported Meredith's remains from the hospital to the morgue.

¶ 13 A forensic pathologist testified that Meredith died as a result of multiple injuries due to assault. Meredith had bruises on his back, legs, and knees that were consistent with being struck with a long flat object and a more focused force, like a fist, elbow, or knee. These injuries caused several broken ribs, which compromised Meredith's lung function and ability to breathe. This caused Meredith's organs not to receive enough oxygen to survive. Meredith also had a toxic, but not fatal, level of quetiapine, an antipsychotic medication, in his system. The forensic pathologist testified that the high level of quetiapine in Meredith's system would have made him more susceptible to the injuries he sustained.

¶ 14 The court instructed the jury as to the offense of first degree murder and the lesser-included offense of involuntary manslaughter. The jury found defendant guilty of involuntary manslaughter.

¶ 15 A presentence investigation report (PSI) was prepared. The PSI showed that defendant had no prior criminal history except for one traffic violation for disregarding a stop sign. The PSI indicated that defendant had been employed as a warehouse supervisor from 1986 to 1998.

Defendant then worked in quality control for a different company from 2011 through 2013. The PSI also indicated that defendant had diabetes for which he took insulin daily.

¶ 16 A sentencing hearing was held. The State submitted victim impact statements from defendant's children and Janice. Janice stated that she and her children were afraid of defendant, she had purchased a home security system, and she had changed the locks on her door. Defendant's daughter also stated that she was afraid of defendant.

¶ 17 Defendant submitted numerous letters of support from family and friends, including his children. In their letters of support, defendant's daughter stated that defendant had always been supportive of her, and defendant's son stated that defendant had always been there for him. Several family members and friends of defendant testified on his behalf as well. Defendant's sister testified that defendant would be able to live with her when he was released from custody.

¶ 18 Defendant gave a statement in allocution expressing remorse for the incident. Defendant acknowledged that he had brought pain to his family members. Defendant stated: "I'm sorry for what happened. I just wish I could turn back the clock but I can't. I wish I could trade places with him every day because a part of me dies every day that he's not here."

¶ 19 The court sentenced defendant to eight years' imprisonment. The court acknowledged that defendant had no prior criminal record. The court stated:

"I also understand the events that led up to this. The frustrations that occurred that were compounded by Mr. Meredith's actions on the date of this occurrence, from the messes in the house and the asking to go to the bathroom several times and in there and out, back and forth, back and forth, and then eventually causing a mess on the floor and refusing to help clean up and smirking, and [defendant's] actions that caused his death."

The court noted that based on the location of Meredith’s injuries, his body had to have been facedown with his back toward defendant during the beating. The court stated that based on this evidence, Meredith was not fighting back or was unable to fight back at some point during the incident. The court also found that the injuries to Meredith were extreme.

¶ 20 Defendant filed a motion to reconsider his sentence, arguing that the court failed to give any weight to the factors in mitigation, including defendant’s remorse, lack of criminal background, and community ties. The court denied the motion. The court stated that it had weighed the factors in aggravation and mitigation.

¶ 21 II. ANALYSIS

¶ 22 Defendant argues that his sentence is excessive in light of his nonexistent criminal history, extensive support from family and friends, record of full-time employment, sincere remorse, and the medical hardship of incarceration due to his diabetes. Defendant also argues that the offense was an isolated incident triggered by a uniquely stressful family situation. Defendant contends that the court failed to place proper weight on this mitigating evidence. We find that the trial court did not abuse its discretion in sentencing defendant to eight years’ imprisonment.

¶ 23 “The trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference.” *People v. Alexander*, 239 Ill. 2d 205, 212 (2010).

“The trial court is granted such deference because the trial court is generally in a better position than the reviewing court to determine the appropriate sentence. The trial judge has the opportunity to weigh such factors as the defendant’s credibility, demeanor, general moral character, mentality, social environment, habits, and age. [Citations.] Consequently, the reviewing court must not substitute

its judgment for that of the trial court merely because it would have weighed these factors differently.” *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

¶ 24 We will not alter the sentence imposed by the trial court absent an abuse of discretion.

Alexander, 239 Ill. 2d at 212. “A sentence will be deemed 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.* (quoting *Stacey*, 193 Ill. 2d at 210).

¶ 25 Here, defendant faced a possible sentencing range of 3 to 14 years’ imprisonment. 720 ILCS 5/9-3(f) (West 2012). Thus, defendant’s eight-year sentence is in the middle of the possible sentencing range.

¶ 26 We find that the trial court did not abuse its discretion in sentencing defendant to eight years’ imprisonment based on the serious nature of the offense. The evidence at trial showed that defendant beat Meredith, his mentally disabled brother-in-law, with his fists and a tomato stake or piece of a rocking chair. Defendant caused severe injuries to Meredith that ultimately resulted in his death. As the trial court noted, the evidence indicated that Meredith was not fighting back. Given the seriousness of the offense, the midrange sentence imposed by the trial court was not “ ‘greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.’ ” *Alexander*, 239 Ill. 2d at 212 (quoting *Stacey*, 193 Ill. 2d at 210).

¶ 27 We reject defendant’s argument that the trial court failed to place proper weight on his lack of criminal history, support from family and friends, history of full-time employment, remorse, and the medical hardship of incarceration due to his diabetes. In imposing the eight-year sentence, the trial court expressly considered defendant’s lack of a criminal history and the stressful circumstances surrounding the offense. We presume that the trial court also considered the other mitigating evidence, as the record does not indicate otherwise. *People v. Cagle*, 277 Ill.

App. 3d 29, 32 (1996) (“We will presume the trial court considered all mitigating evidence before it, absent a contrary indication other than the sentence.”) While there was significant mitigating evidence in this case, “the court is not required to give greater weight to mitigating factors than to the seriousness of the offense.” *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 123. See also *People v. Wilson*, 2016 IL App (1st) 141063, ¶ 11 (“[T]he seriousness of an offense, and not mitigating evidence, is the most important factor in sentencing.”).

¶ 28

III. CONCLUSION

¶ 29

Given the serious nature of the offense in this case, the trial court did not abuse its discretion in imposing a midrange sentence of eight years’ imprisonment, despite the mitigating evidence presented by defendant. The judgment of the trial court is affirmed.

¶ 30

Affirmed.