

2012 IL App (1st) 083199-U

FIRST DIVISION
March 12, 2012

No. 1-08-3199

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
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 06 CR 09038
)	
JENNIFER REEVES,)	Honorable James Linn,
)	Judge Presiding.
Defendant-Appellant.)	

JUSTICE HALL delivered the judgment of the court.

Justices Karnezis and Rochford concurred in the judgment of the court.

ORDER

¶ 1 **Held:** There was sufficient evidence for the jury to find the defendant guilty of first degree murder and aggravated kidnapping beyond a reasonable doubt. The defendant's sentences were not excessive.

¶ 2 Following a jury trial, defendant Jennifer Reeves was found guilty of the first degree murder and aggravated kidnapping of Roger Hunz, Jr. The trial court sentenced defendant Reeves to consecutive terms of 30 years' imprisonment for first degree murder and 10 years'

No. 1-08-3199

imprisonment for aggravated kidnaping. Defendant Reeves appeals, raising the following issues: whether the evidence was sufficient to prove her guilty beyond a reasonable doubt, and whether the sentences imposed by the trial court were excessive.

¶ 3

BACKGROUND

¶ 4 Defendant Reeves and co-defendant Nathaniel McCray were charged by indictment with multiple offenses in connection with the death of Roger Hunz, Jr. In a separate jury trial, co-defendant McCray was convicted of first degree murder and aggravated kidnaping and was sentenced to consecutive terms of 50 and 25 years' imprisonment, respectively. His convictions and sentences were affirmed by this court. See *People v. McCray*, No. 1-07-2640 (2010) (unpublished order under Supreme Court Rule 23).

¶ 5 The State proceeded against defendant Reeves on a theory of accountability. Defendant Reeves' challenge to the sufficiency of the evidence requires a recitation of the evidence pertinent to defendant Reeves' role in the events leading to and resulting in the victim's kidnaping and death.

¶ 6 On the morning of March 14, 2006, the partially-clad body of a male individual was discovered in an alley at 6758 Campbell Street. The individual had sustained injuries to his face and both legs, and a dog collar and duck tape were wound round his neck. The deceased individual was identified through fingerprints as Roger Hunz, Jr (the victim).

¶ 7 Roger Hunz, Sr. testified that the victim was his son; the last time he saw him alive was on March 12, 2006. The victim lived in a condominium in Lansing, Illinois. He had owned a house in Whiting, Indiana that he had recently sold for \$60,000. On March 14, 2006, Chicago

No. 1-08-3199

police accompanied Mr. Hunz, Sr. to the victim's condominium. Mr. Hunz, Sr. noticed that the victim's Lincoln automobile was not in the parking lot. The condominium had been ransacked, and the victim's large screen television set was missing. Based on information from the victim's brother, the police began searching for Christina Noojin (Christina) and Mitchell Alicea (Mitchell).

¶ 8 Christina testified that she lived in Whiting, Indiana with Mitchell and their two children. She acknowledged that she had been convicted of retail theft, for which she received supervision, and that she received a one-year sentence in a violation of probation and a drug paraphernalia case. She further acknowledged that she had outstanding warrants in connection with driving without a valid driver's licence or with a revoked license, and for driving under the influence charges. She had not been threatened, and no promises had been made to her in exchange for her testimony in this case.

¶ 9 Christina had been a neighbor of the victim when he lived in Whiting and that Mitchell and she became friends with the victim. Christina, Mitchell and the victim would party together, drinking liquor and using cocaine and marijuana. Christina knew of defendant Reeves but had not had contact with her until about a month prior to the victim's death. At that time, Christina and victim went to meet defendant Reeves to obtain cocaine from her. Christina was aware that the victim also contacted defendant Reeves on his own. About the same time, Christina met defendant Reeves' boyfriend, Nathaniel McCray.

¶ 10 Christina testified that on the evening of March 13, 2006, the victim came to her house to play cards. Defendant Reeves arrived and asked the victim to give her a ride to purchase some

No. 1-08-3199

cocaine. When Christina suggested that she borrow the victim's Lincoln to drive defendant Reeves, the victim refused because on a prior occasion, Christina had borrowed the Lincoln and failed to return it on time. The victim filed a police report, but no charges were brought against Christina, and they remained friends. Eventually, the victim agreed to drive defendant Reeves and asked Christina to accompany them. The three left in the victim's Lincoln; the victim drove, defendant Reeves sat next to the victim, and Christina sat behind defendant Reeves in the back seat.

¶ 11 Christina testified that defendant Reeves directed the victim into an alley in Whiting and told him to park. After about 10 minutes, Mr. McCray walked up to the car and knocked on the window. Defendant Reeves assured the victim that Mr. McCray was her boyfriend and directed the victim to allow him into the Lincoln. Mr. McCray got into the back seat of the Lincoln and exchanged a bag of cocaine for \$100 with defendant Reeves. Mr. McCray began to yell that he was being set up. He sprayed the women with a substance of some kind and struck defendant Reeves. Mr. McCray then put a rope or cord around the victim's neck and began to tighten it. The victim said he would do whatever Mr. McCray wanted. Mr. McCray tied the victim's hands behind his back and put something like a pillow case over his head. He then carried the victim to a vehicle, which Christina recognized as defendant Reeves' SUV, and drove away.

¶ 12 Defendant Reeves got into the front seat of the Lincoln and directed Christina to sit in the front passenger seat. Defendant Reeves told Christina that she was going to drive to the victim's condominium in Lansing to get money, assuring her that the victim would not be harmed. Christina knew that the victim had recently sold his house and had between \$40,000 and

No. 1-08-3199

\$60,000. The victim had talked a lot about this money in front of many people.

¶ 13 Defendant Reeves used the keys on the victim's key ring to gain access to his condominium. She talked to Mr. McCray several times using Christina's cell phone. After one of these conversations, defendant Reeves told Christina that Mr. McCray had learned from the victim that there was \$2,000 under his mattress. Defendant Reeves flipped over the mattress, but there was no money there. Defendant Reeves then ransacked the apartment. At one point, defendant Reeves gave Christina the cell phone, and Mr. McCray told her, " 'Look, bitch, I don't know if you realize how serious this is, but I just cut his ear off.' " Christina told Mr. McCray that there was no money in the apartment since she was aware that the victim did not keep money in the condominium.

¶ 14 Christina further testified that defendant Reeves then drove to Mr. McCray's house in Chicago. The women entered the basement where they met Mr. McCray and his brother. The four of them went to the garage where Christina saw the victim tied to a chair. The victim's head was swollen, and there was blood on him. Mr. McCray announced that they were all going back to the victim's condominium to search further for the money. Mr. McCray and his brother left in defendant Reeves' SUV; defendant Reeves and Christina left in the Lincoln.

¶ 15 On the way to Lansing, the Lincoln was stopped by Burnham police. Defendant Reeves pulled into a gas station, as did Mr. McCray. Defendant Reeves began saying that she was going to jail and directed Christina to give her a name. Christina gave defendant Reeves her daughter Rebecca's name and social security number. The police officer took the information and went to his car. When he returned, the officer told defendant Reeves to slow down, and he left.

¶ 16 After arriving at their destination, Mr. McCray ransacked the victim's condominium. When no money was found, Mr. McCray and his brother took the victim's television set and put it in defendant Reeves' SUV. Defendant Reeves took bags of food, which were put in the Lincoln. The four of them then drove to defendant Reeves' house in Whiting where they unloaded the stolen items. The four then returned to Mr. McCray's house.

¶ 17 Christina further testified that after arriving at Mr. McCray's house, they entered the basement. Mr. McCray's brother went to bed. Christina heard defendant Reeves and McCray arguing about the failure to find any money and what they were going to do with the victim. Defendant Reeves told Mr. McCray to go outside and pull the victim's teeth out and cut off his fingerprints. Christina took the keys to the Lincoln, ran outside and drove away. She did not know how to get home but drove until the Lincoln ran out of gas. She found a store that was open and called her parents. Christina placed the victim's keys in an ashtray outside of the store. When her stepfather arrived to pick her up, she did not tell him anything about the victim.

¶ 18 Later that day, Christina and Mitchell went to the apartment of Peggy and Al, friends of theirs. Defendant Reeves arrived and demanded the keys to the Lincoln. When Christina said she had thrown them away, defendant Reeves told her " 'You're in this as much as anybody.' " When defendant Reeves ordered Christina to go with Mr. McCray and her, she refused.

¶ 19 On March 15, 2006, Christina and Mitchell went to the Whiting police department where Christina spoke to Officer John Sotello. After she related the events surrounding the victim's kidnaping, Officer Sotello contacted Chicago police. Chicago police officers arrived and took Christina and Mitchell to Chicago. Christina assisted the police in locating the Lincoln and

No. 1-08-3199

retrieving the victim's keys.

¶ 20 At the Chicago police department, Christina viewed a videotape from the Burnham gas station, in which she recognized Mr. McCray and defendant Reeves' SUV. Subsequently, she viewed a lineup and identified Mr. McCray. Christina denied any prior knowledge about the kidnaping, robbery, torture and murder of the victim. She also denied that she expected to get any money from the victim.

¶ 21 On cross-examination, Christina admitted going through some papers during the search of the victim's condominium but denied taking any papers. She acknowledged that she did not go to the victim's aid and did not notify the police at any time during these events. Christina denied socializing with defendant Reeves. She admitted that she used drugs and that the victim had loaned money to Mitchell and her.

¶ 22 Mitchell testified, that after defendant Reeves, Christina and the victim left to obtain the cocaine, he did not see Christina until 8:30 a.m. the next morning. After Christina told him what had happened to the victim, Mitchell did not call the police. Later, Christina and he went to Al and Peggy's house. Defendant Reeves arrived and asked Christina for the victim's keys. When defendant Reeves demanded that Christina accompany her, Mitchell intervened, and Peggy told defendant Reeves to leave. As defendant Reeves left, Mitchell watched her get into the passenger seat of her SUV, but he did not see who was driving. Mitchell confirmed that Christina and he went to the Whiting police and that they were later taken to Chicago by Chicago police. Mitchell also identified Mr. McCray from the gas station videotape.

¶ 23 Mitchell acknowledged that he had a prior conviction for theft and an outstanding warrant

No. 1-08-3199

for retail theft. Mitchell also acknowledged that in the past, he had used aliases. He denied that any promises had been made to him in exchange for his testimony.

¶ 24 On cross-examination, Mitchell acknowledged that in March 2006, he had a substance abuse problem and that the victim and he had done cocaine together. He also knew that the victim had money from the sale of his house. He admitted that after Christina told him what had happened, he did not call the police.

¶ 25 Police Officer Tom Dillner testified that on March 14, 2006, he was employed by the Burnham police department. At 3:30 a.m., he made a traffic stop of the victim's Lincoln at Torrence Avenue and 159th Street in Calumet City. The driver gave him the name Rebecca Noojin. A records check revealed no record, and he did not issue any traffic citations. Officer Dillner viewed the surveillance videotape from the gas station and identified his police vehicle parked behind the Lincoln, and an SUV. On cross-examination, Officer Dillner said he had previously identified a photo of Christina as one of the individuals in the Lincoln.

¶ 26 Vinnie Patel testified that on March 14, 2006, he was working at the Mobil gas station at Torrence Avenue and 159th Street in Calumet City. About 3:30 a.m., a police car pulled into the station. There was another car in front of the police car. An SUV also pulled into the station. A black male came into the station and bought gas and a bottle of water. Mr. Patel also testified that the gas station had surveillance cameras. On cross-examination, Mr. Patel agreed that the man paid for gas for two vehicles.

¶ 27 William Sullivan testified that he was employed by the Chicago police department as a forensic investigator. He processed Mr. McCray's garage and collected blood samples and pieces

No. 1-08-3199

of wood with what appeared to be blood on them. The parties stipulated that the blood swabs taken from Mr. McCray's garage contained the victim's DNA.

¶ 28 Chicago Police Detective John Murray testified that he was assigned to the investigation of the victim's murder. In the course of his investigation, Detective Murray took Christina to look for the victim's Lincoln. They located the Lincoln near Stoney Island Avenue and 93rd Street. The keys were found in a dumpster behind a mini-mart. In searching defendant Reeves' residence, Detective Murray recovered the victim's birth certificate and a photocopy of the victim's social security card and driver's license. Detective Murray subsequently located defendant Reeves' SUV in an auto pound. The interior of the SUV appeared to have sustained fire damage. Detective Murray located defendant Reeves in a motel. When he knocked on the door, defendant Reeves stated that she had been expecting the police.

¶ 29 Dr. Joseph Lawrence Cogan, a forensic pathologist, testified that on March 15, 2006, he performed an autopsy on the victim; there was duct tape over the victim's mouth and a dog leash with the body. There were roughly 223 injuries on the victim's body, and the body had very little blood in it. Dr. Cogan observed injuries to the victim's head and that his jaw had been fractured. The injuries to the victim's neck were consistent with strangulation by a ligature like a rope or chain. The pattern injuries to Roger's arms and legs were consistent with the use of an object with a rounded edge. The victim's left hand had bruises and abrasions; the little finger of his right hand was broken. The victim also suffered injuries to his penis and testicles. The denatured appearance of his skin indicated that gasoline had been poured over the victim.

¶ 30 Dr. Cogan opined that the victim died from multiple injuries due to an assault, with

strangulation as a contributing factor. He classified the manner of death as homicide.

¶ 31 After the State rested its case, Jerome Francishi testified on behalf of defendant Reeves. Mr. Francishi met Christina about 20 years ago when she was his brother-in-law's girlfriend. He also knew her through his experience as a police officer. Mr. Francishi testified that Christina's reputation was that of "a liar, thief and druggy." Defendant Reeves declined to testify and the defense rested.

¶ 32 The jury found defendant Reeves guilty of first degree murder and aggravated kidnaping. At her sentencing hearing, the trial court heard evidence in aggravation and mitigation. In making its sentencing determination, the trial court found that while Mr. McCray had inflicted the injuries on the victim, defendant Reeves had been instrumental in initiating the events leading up to the victim's kidnaping and that she had encouraged Mr. McCray to do what was necessary to obtain the money.

¶ 33 Taking into consideration that Mr. McCray actually inflicted the injuries on the victim, and the mitigation presented on her behalf, the trial court determined that defendant Reeves should receive a different sentence than had been imposed on Mr. McCray. The court sentenced defendant Reeves to consecutive terms of 30 years for first degree murder and 10 years for aggravated kidnaping. This appeal followed.

¶ 34 ANALYSIS

¶ 35 I. Reasonable Doubt

¶ 36 Defendant Reeves contends that there was insufficient evidence for the jury to find her guilty of first degree murder and aggravated kidnaping under a theory of accountability. She

points out that she played no role in the actual beating of the victim and that her accountability was based on the testimony of Christina, who was not a credible witness.

¶ 37

A. Standard of Review

¶ 38 When considering a defendant's challenge to the sufficiency of the evidence, a reviewing court applies a reasonable doubt standard. *In re Jonathan C.B.*, 2011 IL 107750, ¶47. "The reasonable doubt standard asks whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jonathan C.B.*, at ¶47. The same standard applies to both direct and circumstantial evidence. *Jonathan C.B.*, at ¶47.

¶ 39

B. Discussion

¶ 40 In Illinois, a person is legally accountable for another's criminal conduct when, "either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he solicits, aids, abets, agrees or attempts to aid, that other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 2006). In order to prove that a defendant possessed the intent to promote or facilitate the crime, the State must present evidence which shows beyond a reasonable doubt that the defendant either shared the criminal intent of the principal, or there was a common criminal design. *People v. Perez*, 189 Ill. 2d 254, 266 (2000).

¶ 41 In *Perez*, the supreme court explained the common design rule as follows:

"The common design rule provides that where two or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the design or

agreement and all are equally responsible for the consequences of the further acts.

[Citation.] Words of agreement are not necessary to establish a common purpose to commit a crime. [Citation.] Accountability may be established through a person's knowledge of and participation in the criminal scheme, even though there is no evidence that he directly participated in the criminal act itself. [Citation.] *** Evidence that the defendant voluntarily attached himself to a group bent on illegal acts, with knowledge of its design, also supports an inference that he shared the common purpose and will sustain his conviction for an offense committed by another. [Citation.]" *Perez*, 189 Ill. 2d at 267.

¶ 42 The evidence in this case established that defendant Reeves and Mr. McCray participated in a common criminal design to unlawfully obtain money from the victim. Their common criminal design led to the kidnaping, torture and resulting death of the victim. While Christina was the primary witness against defendant Reeves, her testimony was corroborated by the testimony of the other witnesses as well as the physical evidence presented at trial. The fact that defendant Reeves did not personally inflict any injuries on the victim, her actions, which we have set forth in detail, clearly established her accountability for the injuries inflicted on the victim by Mr. McCray.

¶ 43 When considering a sufficiency of the evidence challenge, this court will not retry the defendant. *Jonathan C.B.*, ¶59. As the trier of fact in this case, the jury was best equipped to judge the credibility of the witnesses, and due consideration must be given to the fact that the jury saw and heard the witnesses. *Jonathan C.B.*, ¶59. It was also for the jury to resolve any

conflicts or inconsistencies in the evidence. *Jonathan C.B.*, ¶59. While the jury's decision to accept testimony is neither binding nor conclusive, it is sufficient if all the evidence taken together satisfies the jury beyond a reasonable doubt of the defendant's guilt. *Jonathan C.B.*, ¶¶59, 60. We will not reverse a conviction solely because a defendant tells us that a witness is not credible. *Jonathan C.B.*, ¶60.

¶ 44 We reject defendant Reeves's challenge to Christina's credibility as a witness. Through her admissions on direct examination and the rigorous cross-examination by defense counsel, the jury was made aware of Christina's prior criminal history and drug use, as well as the inconsistencies in her testimony. The jury was also made aware of Christina's involvement in the victim's kidnaping and the events which led to his death. See *People v. Baugh*, 358 Ill. App. 3d 718, 737 (2005) (challenge to the sufficiency of the evidence was unpersuasive where the weaknesses in the evidence were presented and rejected by the jury). There is no basis for disturbing the jury's credibility determinations in this case.

¶ 45 The evidence presented to the jury in this case overwhelmingly supports the jury's verdict finding defendant Reeves guilty of first degree murder and aggravated kidnaping.

¶ 46 II. Excessive Sentence

¶ 47 Defendant Reeves requests that this court reduce her 30-year sentence for first degree murder to 20 years' imprisonment. She maintains that her sentence is excessive because she did not take part in the beating which resulted in the victim's death and because she had no criminal record and no history of prior violent behavior.

¶ 48

A. Standard of Review

¶ 49 As a reviewing court, we may not alter a defendant's sentence absent an abuse of discretion by the trial court. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). We will not disturb a sentence within the statutory guidelines unless it is greatly disproportionate to the nature of the offense. *People v. Cotton*, 393 Ill. App. 3d 237, 266 (2009).

¶ 50

B. Discussion

¶ 51 The nonextended-term sentencing range for first degree murder is 20 to 60 years (730 ILCS 5/5-8-1(a)(1)(a) (West 2006)). Defendant Reeves' sentence of 30 years for first degree murder was 10 years more than the minimum but 30 years less than the maximum nonextended-term sentence for first degree murder.

¶ 52 Conceding that her sentence was within the statutory guidelines, defendant Reeves relies on several cases in which the appellate courts reduced the sentences of defendants convicted of murder. She points out that the original sentences were reduced even though they were within the sentencing guidelines, and she maintains that the circumstances of those murders were no less egregious than that of the victim in this case.

¶ 53 In *People v. Fern*, 189 Ill. 2d 48, 55 (1999), our supreme court rejected cross-case comparative sentencing as a basis for challenging a sentence. "The propriety of the sentence imposed in a particular case cannot properly be judged by the sentence imposed in another, unrelated case. Simply because a lesser sentence was imposed in another case does not lead to the conclusion that the more severe sentence imposed in the case at hand is excessive." *Fern*, 189 Ill. 2d at 56.

¶ 54 A reviewing court can compare the sentence imposed on a codefendant who was involved in the same crime. *Fern*, 189 Ill. 2d at 58. Mr. McCray was sentenced to 50 years for first degree murder, almost twice as long as defendant Reeves' sentence for the same first degree murder. The differing sentences reflect the trial court's consideration of the different roles played by defendant Reeves and Mr. McCray in the offenses in this case.

¶ 55 Defendant Reeves then contends that her lengthy sentence cannot be justified on the grounds that such a sentence serves as a deterrent or that her incarceration would prevent her from committing more crimes. From our review of the trial court's remarks at the sentencing hearing, it is clear that the trial court did not place any significance on either of those factors in sentencing defendant Reeves.

¶ 56 We conclude that the trial court did not abuse its discretion in sentencing defendant Reeves to 30 years' imprisonment for first degree murder.

¶ 57 CONCLUSION

¶ 58 For the foregoing reasons, we affirm defendant Reeves' convictions and sentences for first degree murder and aggravated kidnaping.