FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-1542

RONALD L. BELL, JR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Okaloosa County.
William F. Stone, Judge.

February 22, 2021

M.K. THOMAS, J.

Ronald Bell Jr. (Appellant)—who was a juvenile when he committed his crimes—was resentenced to life in prison without the possibility of parole for the 1999 kidnapping and murder of his girlfriend's roommate (the victim).[1] Because a juvenile sentence of

---

[1] Following his trial, a twelve-person jury unanimously voted to impose the death sentence. However, the Florida Supreme Court reduced the sentence of death to life without the possibility of parole, finding that the "statutory mitigator that Appellant was seventeen years of age is an extremely significant factor that, together with the other mitigation, renders the death penalty disproportionate." *Bell v. State*, 841 So. 2d 329, 339 (Fla. 2002).

life imprisonment with no possibility of parole (or a term which is the functional equivalent to life) was subsequently deemed unconstitutional in *Miller v. Alabama*, 567 U.S. 460, 470 (2012), Appellant moved for and was granted a juvenile resentencing hearing pursuant to section 921.1401, Florida Statutes (2018). In May 2018, the court imposed a sentence of life on both counts to run consecutively. At the resentencing hearing, the court contemporaneously—and without any motion from the defense—performed a juvenile sentence review under section 921.1402(6), Florida Statutes (2018), and determined that Appellant was neither fully rehabilitated nor fit to reenter society.

In this appeal, Appellant raises two challenges to his latest sentence. First, Appellant argues that the sentencing court erred in, *sua sponte*, conducting a juvenile sentence review hearing. On this argument, we agree and reverse. Second, Appellant asserts that the lower court abused its discretion by reimposing life sentences. We disagree and affirm because the record supports the reasonableness of the court's sentencing determination.

The Murder and Original Sentence

In February 1999, Appellant organized and executed a sadistic and nightmarish plan to brutalize and murder the victim as punishment for the victim's treatment of Appellant's girlfriend. After the murder, Appellant planned to squat in the victim's apartment and sell his belongings. With the assistance of his girlfriend and another woman, Appellant attacked the victim in his apartment and directed that the victim be beaten with a baseball bat. Appellant choked the victim to unconsciousness, bound him with rope, wrapped him in a blanket, and dragged him to a car. The victim was placed in the trunk of the car and driven to a wooded area.

Upon arriving at the wooded area, the victim was dragged through the woods until one of the women involved remembered that the group had planned to get the victim's financial information. While pleading for his life, the victim provided the financial details. Appellant then directed his girlfriend to further beat the victim with the baseball bat. However, Appellant later took over the beating after he determined that she was not hitting

the victim hard enough. Appellant joked that he was Babe Ruth as he struck the victim's head. After the beating, the victim, who was still conscious, was chained to a nearby tree, doused in lighter fluid, and set on fire. The group then left the area, and Appellant subsequently disposed of the baseball bat, lighter fluid, and the gloves worn by the group during the rampage.

The following morning, Appellant and the women returned to the woods to ensure that the victim was dead. However, the victim was alive and crying out for help. Appellant responded by attempting and failing to break the victim's neck. The group then left the scene and drove to a Target where Appellant bought a meat cleaver and duct tape. They returned to the scene, and Appellant cut the victim's throat twice. The group then returned to Target to return the meat cleaver and acquire a refund. A week later, Appellant returned to the murder scene and burned the now decomposing body of the victim after dousing it with gasoline.

Later, Appellant cashed a forged check and began selling off the victim's personal property. Ten days after the murder, officers went to the victim's apartment to perform a welfare check. Appellant and his girlfriend were discovered in the victim's apartment. Appellant was tried and convicted of one count of first-degree murder with a deadly weapon and one count of armed kidnapping. Appellant was originally sentenced to death on the murder charge, but his sentence was reduced to life imprisonment without the possibility of parole after an appeal to the Florida Supreme Court. *Bell*, 841 So. 2d at 339–40.

The Resentencing

At the resentencing hearing, a letter from the victim's parents described how the murder of their son has haunted them. The victim's daughter testified to how the loss of the victim had strained the bonds of the family and how the circumstances of his death had weighed on her throughout her life. The victim's ex-wife described the difficulties she endured raising her daughter as a single parent. Appellant also presented testimony. His father testified to having provided Appellant with a healthy home and described how Appellant had fallen into a bad crowd. He asserted that Appellant had changed for the better over the years.

Appellant's longtime pen-pal testified regarding their friendship, which developed and grew while Appellant was serving the life sentence. Appellant also presented testimony from psychologist Dr. Jethro Toomer. Dr. Toomer testified that he had reviewed Appellant's records and interviewed him in prison. He opined that his review of the records indicated that the crime was impulsive, and that Appellant appeared to have exhibited "a significant amount of growth between age 17 and 37" while serving his sentence.

The court's sentencing order addressed each of the factors enumerated under section 921.1401(2). The court found that the nature and circumstances of the offense were "shockingly brutal and gruesome," and that the crimes had "a profoundly devastating effect on the victim's family." Regarding Appellant, the court found that he had a healthy, caring upbringing which provided for his needs. The court acknowledged that Appellant's youth meant that he likely did not fully appreciate all the risks and consequences of his actions, but that Appellant had anticipated many of the risks and consequences as evidenced by the advanced measures he took to complete the crime while leaving no evidence. The court also found that the evidence presented showed "some behavior consistent with maturity and that he has a support system in place should he be released."

In addition to these sentencing findings, the sentencing court's order also included a section titled, "Application of Factors under Section 921.1402(6) Pertaining to Sentence Review." There, the court determined that, "[b]ecause [Appellant] has been incarcerated for more than 15 years, the court, out of an abundance of caution, finds it appropriate to also consider these factors that guide a trial court when conducting a sentence review hearing." After similarly addressing each of the factors prescribed in section 921.1402 and having "carefully reviewed and considered all of the factors relevant to the offenses and [Appellant's] youth and attendant circumstances," the court determined that a life sentence was appropriate on each count. The court further concluded that because Appellant had already served fifteen years and "has had the benefit of this resentencing proceeding," that any additional sentence review proceeding on the murder count would be "unnecessary." The court noted that Appellant would be eligible

for a sentence review hearing only on the count for kidnapping after serving twenty years.

I.

Appellant first argues that the sentencing court erred in its interpretation of the standards controlling juvenile criminal sentences under Chapter 921. For certain offenses, section 921.1401 dictates that a trial court may conduct a standalone sentencing hearing to determine whether a life sentence is appropriate according to the considerations prescribed therein. The parties agree that a sentencing hearing under section 921.1401 was appropriate. The parties further agree that section 921.1402 separately provides a mechanism for trial courts to modify lengthy juvenile sentences previously imposed to allow for early release.

The State concedes and we agree that the sentencing court's *sua sponte* juvenile sentence review under section 921.1402 was error. The only method contemplated in the statute for initiating such a hearing is by application from a defendant to the court of original jurisdiction, which did not occur here. *See* § 921.1402(4), Fla. Stat. ("Upon receiving an application from an eligible juvenile offender, the court . . . shall hold a sentence review hearing . . .).

In denying Appellant's motion for reconsideration arguing it lacked jurisdiction to conduct the hearing, the sentencing court cited *Weiand v. State*, 277 So. 3d 261 (Fla. 5th DCA 2019). However, the case falls short of the issue at hand. *Weiand* holds that a sentencing and review hearing pursuant to sections 1401 and 1402 may occur at the same proceeding. *See id.* at 263. *Weiand* did not address whether a trial court may *sua sponte* initiate and conduct a review hearing under section 1402 whilst performing a review under section 1401. *Id.* Because the plain language of section 1402 requires a defendant-initiated proceeding, the *sua sponte* nature of the action here requires reversal.

II.

The second issue challenges the reimposition of life sentences. On appeal, any factual findings by the trial court which are

supported by competent, substantial evidence in the record must be affirmed, and the court's ultimate sentencing decision is reviewed for abuse of discretion. *Jackson v. State*, 276 So. 3d 73, 76 (Fla. 1st DCA 2019).

Appellant does not challenge the sentencing court's factual findings. Instead, he argues that the sentencing court lacked the discretion to reimpose the terms of life because the Florida Supreme Court previously reversed his death sentence after performing a proportionality analysis. *See Bell,* 841 So. 2d at 337–39. He essentially argues that the reversal of his death penalty, although not technically "the law of the case" regarding imposition of the life sentence, should be regarded as precedent because the "reasoning" and considerations are substantively similar. We disagree.

Appellant erroneously conflates the separate and distinct considerations applied to death penalty review and that of juvenile sentencing hearings under section 921.1401. In Appellant's previous appeal of his death sentence, the supreme court applied a specific proportionality analysis applicable to death penalty review only. *Id*. at 337–40. As *Bell* explained, proportionality analysis is required in death penalty cases because of the unique nature of the punishment. *Id*. at 337 ("proportionality review is a unique and highly serious function of this Court, the purpose of which is to foster uniformity in death-penalty law" (quoting *Tillman v. State*, 591 So. 2d 167, 169 (Fla. 1991))); *see also Jones v. State*, 212 So. 3d 321, 346 (Fla. 2017).

Here, Appellant appeals his life sentences, not a sentence of death. First, the independent proportionality analysis required in death penalty cases is based on the unique nature of that punishment. *See Jones*, 212 So. 3d at 346; *Bell*, 841 So. 2d at 337. Although we acknowledge that the factors enumerated in section 921.1401 are not exhaustive, the analysis for imposition of the death penalty as opposed to that for a sentence of life are not identical. Nor can it logically be said that the supreme court's conclusions in *Bell* could simply be plugged in. Accordingly, the supreme court's previous reversal of Appellant's death sentence does not constitute the law of the case under a section 921.1401 sentencing analysis.

Appellant further argues that "there are overarching Eighth Amendment concerns with respect to a life sentence for a juvenile offender" overlying section 921.1401(2). He asserts that the analysis utilized in *Miller* is an additional layer of consideration that sentencing courts must confront separate and apart from those required under section 921.1401 prior to imposing a life sentence. However, the argument that the sentencing scheme prescribed by section 921.1401 insufficiently respects the constitutional limits on juvenile sentencing imposed in *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller* was addressed and rejected by this court in *Phillips*. *v. State,* 286 So. 3d 905, 912 (Fla. 1st DCA 2019). *Phillips* determined that *Miller* does not foreclose the possibility of a juvenile receiving a life sentence without parole; however, the State must provide the juvenile offender with "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Id.* at 908 (quoting *Graham*, 560 U.S. at 75).

In the aftermath of *Graham* and *Miller*, the Florida Legislature enacted section 921.1401, providing for a separate hearing "to determine if a term of imprisonment for life or a term of years equal to life imprisonment is an appropriate sentence." § 921.1401(1), Fla. Stat. It requires that, "in determining [whether a life sentence is appropriate], the court shall consider factors relevant to the offense and the defendant's youth and attendant circumstances." § 921.1401(2), Fla. Stat. The section sets forth a non-exhaustive list of ten factors considering various aspects of the effects of youth, home life, and the level of a defendant's participation in the offense. § 921.1401(2)(a)–(j), Fla. Stat. The statute requires a sentencing court to consider a juvenile defendant's youth and attendant characteristics before determining that life without parole is a proportionate sentence.

Appellant's argument relies on general language from Eighth Amendment jurisprudence and this Court's opinion in *Phillips* to declare that, in addition to those considerations required by section 1401, the sentencing court must make a separate determination that Appellant was among the "rarest of children" demonstrating "irreparable corruption" before a life sentence may be imposed. However, Appellant's argument ignores section

921.1402. Here, Appellant has not received an inescapable, irrevocable life sentence. He has the opportunity to request a review hearing under section 921.1402 to determine "whether his sentence should be modified based on demonstrated maturity and rehabilitation." *See* § 921.1402(2)(a), Fla. Stat.[2] Because section 1402 provides a meaningful opportunity for release, a life sentence which is subject to its review does not violate the Eighth Amendment, and a court sentencing a juvenile offender to life under these circumstances need not make any findings of "irreparable corruption." *Phillips*, 286 So. 3d at 909.

The only issues before this Court in reviewing the trial court's reimposition of a life sentence under section 921.1401 are: 1) whether the trial court's factual findings are supported by competent, substantial evidence; and, 2) whether the court's ultimate sentencing determination is a reasonable use of the court's discretion. *See Jackson*, 276 So. 3d at 75. As Appellant does not challenge the specific factual findings made by the sentencing court and instead only challenges the conclusion that a life sentence is appropriate and within the discretion of the sentencing court, we have restricted our analysis accordingly. In so doing, we find the sentencing court's reimposition of life sentences to be within its discretion and reasonable, considering the factual determinations. As the court noted, the circumstances of the crimes are horrifying, and Appellant's home life could not be blamed in any sense. Further, any mitigation brought by Appellant's immaturity at the time is tempered by Appellant's exercise of planning, foresight, and obvious appreciation of what he was doing to ensure that he accomplished the murder while leaving no evidence.

There are many factors to be considered during juvenile resentencing, and it is the province of the sentencing court to determine how much weight should be given to each. *Id.* at 76. We

---

[2] Of note, a juvenile offender sentenced "under section 775.082(1)(b)1. is entitled to a review of his or her sentence after 25 years." § 921.1402(2)(a), Fla. Stat. Appellant committed the murder in 1999. Thus, the 25-year statutory threshold has not been satisfied.

will not substitute our judgment for that of the sentencing court in determining this weight. *Id*. We find that the sentencing court did not abuse its discretion in reimposing the life sentences and, therefore, affirm on this issue.

REVERSED, in part, and AFFIRMED, in part.

MAKAR and OSTERHAUS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Justin F. Karpf, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Virginia Chester Harris, Assistant Attorney General, Tallahassee, for Appellee.