MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Juwan Williams,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 18, 2023

Court of Appeals Case No. 23A-CR-93

Appeal from the Brown Circuit Court

The Honorable Mary Wertz, Judge

Trial Court Cause No. 07C01-1610-F5-455

Memorandum Decision by Judge Bradford
Judges Vaidik and Brown concur.

Bradford, Judge.

Case Summary

[1] In August of 2016, Williams led police on a high-speed chase that reached speeds of over 120 miles per hour and ended when Williams crashed into a ditch, severely injuring one of her passengers. The State charged Williams with two counts of Level 5 felony resisting law enforcement and Level 6 felony resisting law enforcement. Following a jury trial that Williams did not attend, the jury convicted her as charged, and the trial court sentenced her to two-and-one-half years of incarceration for one count of Level 5 felony resisting law enforcement. Williams contends that the trial court abused its discretion in denying her motion for a new trial and in sentencing her. We affirm.

Facts and Procedural History

[2] On August 4, 2016, officers with the Edinburgh Police Department were dispatched to the Edinburgh Outlet Mall regarding a theft in progress and were told that the suspects were leaving in a red, four-door Toyota Camry. When Officer Aaron Robinson arrived, he observed a red, four-door Toyota Camry being driven by Williams exiting the mall at a high rate of speed. When Officer Robinson's vehicle blocked Williams's exit, she turned the Camry around and made her way to Interstate 65, traveling south at high speed.

[3] Williams continued southbound, exited at the Taylorsville exit, and drove westbound on State Road 46 toward Brown County. Officers continued the pursuit as Williams reached speeds up to 115 miles per hour and notified local law enforcement when Williams entered Brown County. Williams's Toyota entered oncoming traffic, passed vehicles on the shoulder, wove in between

vehicles without braking, forced a motorcycle off the road, and traveled at speeds up to 122 miles per hour.

[4] Williams entered Nashville, ran a stop sign, and abruptly turned into a parking lot. Williams drove through parking lots, turned around, and drove back toward the pursuing police cars. Williams approached one of the cars head-on. As they moved closer to each other, Williams veered to the side and another officer's vehicle hit the right rear corner of Williams's vehicle. Williams's car spun out causing it to stall. Williams restarted the vehicle and took off "like a rocket." Tr. Vol. III p. 24. Williams was driving approximately eighty miles per hour through the parking lot. Williams drove through the grass, struck a landscaping box, and turned back onto the street. Williams ran another stop sign, ran a red light, and almost struck a car in the intersection. Williams continued her flight, again reaching speeds of over 100 miles per hour. Williams collided with a black SUV, jumped an embankment, and crashed into a ditch. One of the backseat passengers required medical treatment before removal because she had a blank stare, could barely respond to simple commands, and her right hand was nearly severed and attached only by a flap of skin and bones were visible.

[5] On October 20, 2016, the State charged Williams with two counts of Level 5 felony resisting law enforcement and one count of Level 6 felony resisting law enforcement. At the final pretrial hearing on April 26, 2021, the trial court set the trial for May 12, 2021, and informed Williams that if she did not appear for

trial the trial could be conducted in her absence, and Williams confirmed she understood.

[6] On May 12, 2021, Williams did not appear for trial. Trial counsel said that she had not had any contact with Williams and had been unable to reach her through the most recent telephone number provided by Williams. Trial counsel had called Williams two or three times and Williams's telephone had put counsel's calls directly to voicemail. Trial counsel had also sent multiple emails to Williams informing her that she needed to be present for trial. Trial counsel had also confirmed that Williams was not in custody in Tennessee and requested a continuance of the trial. The trial court denied the request for a continuance. The jury found Williams guilty as charged.

[7] On September 1, 2022, Williams moved for a new trial and to vacate the jury verdict alleging that she had not knowingly and voluntarily failed to appear for trial. At a hearing on Williams's motion, Williams testified that she had had actual knowledge of the trial date but that she had contracted COVID-19 and had been very ill. Williams testified that she had tried to contact her attorney by telephone, but had lost her telephone and could not email her attorney. Williams submitted COVID-19 test results purporting to be from the Tennessee Department of Health. The State admitted an email from the Deputy General Counsel of the Tennessee Department of Health stating that the forms submitted by Williams were not used by the department, there was no record of Williams ever being seen by the Tennessee Department of Health, nor did the

providers on the forms submitted by Williams appear in the department's system.

[8] Williams's trial counsel testified that Williams had provided her with a new telephone number just two weeks prior to trial and that she had regularly communicated with Williams via email. Trial counsel testified that her telephone records showed that she had called Williams three times after trial but had never received an incoming call from Williams. Trial counsel testified that she had had no voicemails from Williams on the day of trial and had emailed Williams after trial, but Williams had never responded. The trial court denied Williams's motion for a new trial.

[9] At sentencing, the trial court vacated Williams's convictions for one count of Level 5 resisting law enforcement and Level 6 felony resisting law enforcement due to double-jeopardy concerns. Williams testified that she had been raped as a child, she suffered from PTSD and "manic depression[,]" her romantic partner had committed suicide in her presence in 2016, and she had seen her aunt's body "burnt beyond recognition." Tr. Vol. IV p. 26. Williams testified that she had been dealing with a lot of stress and grief and needed counseling rather than incarceration. Williams argued that, despite her criminal history, she had changed and was becoming a better person. Williams's mother testified that Williams had been a victim of sexual abuse as a child and had been placed on an individualized educational plan as a child due to emotional issues. The trial court found Williams's criminal history, that she had been on probation at the time she had committed this offense, and the nature and circumstances of

the offense to be aggravating circumstances. The trial court found no mitigating circumstances. The trial court sentenced Williams to five and one-half years for Level 5 felony resisting law enforcement.

Discussion and Decision

I. Absence at Trial

[10] In general, a defendant has the right under both the state and federal constitutions to be present at all stages of her trial. *Jackson v. State*, 868 N.E.2d 494, 498 (Ind. 2007). "[A] defendant may be tried in absentia if the trial court determines that the defendant knowingly and voluntarily waived that right." *Id*. (citing *Lampkins v. State*, 682 N.E.2d 1268, 1273 (Ind. 1997)). The "best evidence that a defendant knowingly and voluntarily waived his or her right to be present at trial is the defendant's presence in court on the day the matter is set for trial." *Lampkins*, 682 N.E.2d at 1273. When a defendant fails to appear for trial and fails to notify the trial court or provide it with an explanation for her absence, the trial court may presume that the defendant's absence is knowing and voluntary and proceed with the trial. *Jackson*, 868 N.E.2d at 498.

[11] Where, as here, a defendant is tried *in absentia*, the trial court must give her an opportunity "to explain [her] absence and thereby rebut the initial presumption of waiver." *Brown v. State*, 839 N.E.2d 225, 227 (Ind. Ct. App. 2005) (citing *Ellis v. State*, 525 N.E.2d 610, 612 (Ind. Ct. App. 1987)), *trans. denied*. We evaluate the record to determine whether the waiver was knowing, voluntary, and intelligent. *Lusinger v. State*, 153 N.E.3d 1162, 1166 (Ind. Ct. App. 2020). For purposes of determining voluntariness, it is relevant whether a problem or

emergency arose such that despite a defendant's good-faith effort, she was prevented from attending. *Id*. at 1167 (citing *Brown*, 839 N.E.2d at 231). We review the trial court's decision for an abuse of discretion. *Brown*, 839 N.E.2d at 231 (citing *Taylor v. State*, 178 Ind. App. 650, 653, 383 N.E.2d 1068, 1071 (1978)).

[12] Williams concedes that she had personal knowledge of the trial date. At the final pretrial conference, the trial court had informed Williams of the trial date and had notified her that if she failed to appear for trial that it could be conducted in her absence. Williams confirmed that she had understood but nonetheless had failed to appear. Based on this record, the trial court could have found that Williams had known when her trial was scheduled and had simply chosen not to appear.

[13] When asked to explain her absence, Williams claimed that her failure to appear had not been knowing and voluntary because she had contracted COVID-19 and had been unable to contact her attorney. The State, however, presented evidence tending to prove that Williams had falsified her COVID-19 test results. As for Williams's claims that she had repeatedly attempted to contact trial counsel, the trial court was not required to believe Williams's self-serving testimony and apparently did not. *See Thompson v. State,* 804 N.E.2d 1146, 1149 (Ind. 2004) (stating "[a]s a general rule, factfinders are not required to believe a witness's testimony even when it is uncontradicted"). The trial court did not abuse its discretion in finding that Williams had failed to rebut the presumption

that she had knowingly, voluntarily, and intelligently waived her right to be present for trial.

II. Whether the Trial Court Abused Its Discretion in Sentencing Williams

[1] Sentencing decisions "rest within the sound discretion of the trial court"; therefore, we look "only for an abuse of discretion." *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). A trial court abuses its discretion when it makes a decision that is "clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn" from those facts and circumstances. *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006). A trial court abuses its discretion when it (1) fails to enter a sentencing statement; (2) enters a sentencing statement that explains the reasons for the sentence, but the record fails to support those reasons; (3) omits reasons that are clearly supported by the record and advanced for consideration; or (4) gives reasons that are improper as a matter of law. *Anglemyer*, 868 N.E.2d at 490–91. A trial court, however, is not required to find mitigating circumstances or explain why it did not find a circumstance to be significantly mitigating. *Fugate v. State*, 608 N.E.2d 1370, 1374 (Ind. 1993); *Sherwood v. State*, 749 N.E.2d 36, 38 (Ind. 2001). Although the trial court must consider evidence of all mitigating circumstances offered by a defendant, "[a] court does not err in failing to find mitigation when a mitigation claim is highly disputable in nature, weight, or significance." *Henderson v. State*, 769 N.E.2d 172, 179 (Ind. 2002).

[2] Willams contends that the trial court abused its discretion in not finding her mental health to be a mitigating circumstance. There are four factors to consider in assigning what weight should be given to mental illness in sentencing: (1) the extent of the defendant's inability to control his or her behavior due to the disorder or impairment; (2) overall limitations on functioning; (3) the duration of the mental illness; and (4) the extent of any nexus between the disorder or impairment and the commission of the crime. *Biehl v. State*, 738 N.E.2d 337, 340 (Ind. Ct. App. 2000), *trans. denied*. Williams presented no testimony or evidence from any mental-health professional supporting her claims of a history of psychiatric issues or her apparent self-diagnoses for ADHD, PTSD, and manic depression, and the trial court was not required to believe Williams's self-serving testimony to that effect. *See Popplewell,* 428 N.E.2d at 16. A trial court can only err in failing to find a mitigating circumstance if the defendant can show it is both significant and clearly supported by the record, *Matshazi v. State*, 804 N.E.2d 1232, 1240 (Ind. Ct. App. 2004), *trans. denied*, and Williams has failed to do so. Moreover, Williams did not show that her crimes had had a nexus to her alleged history of mental health. *See Archer v. State*, 689 N.E.2d 678, 686 (Ind. 1997) (finding that a defendant's mental illness warrants little or no mitigating weight when there is no nexus between the defendant's mental illness and commission of the crime). The trial court was not required to find Williams's history of mental-health disorders as a mitigating circumstance because she failed to establish that it was either significant, was clearly supported by the record, or had had a nexus with

her crimes. We conclude that the trial court did not abuse its discretion in sentencing Williams.

[3] We affirm the judgment of the trial court.

Vaidik, J., and Brown, J., concur.