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NO. COA14-1095
NORTH CAROLINA COURT OF APPEALS

Filed: 17 March 2015

STATE OF NORTH CAROLINA

v.

MARIO DANTE RAMSEY

Orange County
Nos. 11 CRS 53706
12 CRS 50303

Appeal by Defendant from judgments entered 16 May 2014 by Judge R. Allen Baddour in Orange County Superior Court. Heard in the Court of Appeals 23 February 2015.

Attorney General Roy Cooper, by Special Deputy Attorney General David P. Brenskelle, for the State.

James N. Freeman, Jr., for Defendant.

STEPHENS, Judge.

Defendant Mario Dante Ramsey appeals from the judgments entered after he pled guilty to second-degree murder and robbery with a dangerous weapon. Specifically, Ramsey contends that the trial court abused its discretion when it imposed an aggravated-range sentence for the second-degree murder charge despite the State's stipulation to the existence of two mitigating sentencing factors. After careful consideration, we hold that the trial court

did not abuse its discretion in balancing the aggravating and mitigating sentencing factors presented in this case, and we consequently affirm its decision to impose an aggravated-range sentence.

Procedural History

On 16 May 2014, Ramsey pled guilty to one charge of second-degree murder and entered an *Alford* plea to one charge of robbery with a dangerous weapon. At his sentencing hearing, Ramsey stipulated to two aggravating sentencing factors: one willful probation violation resulting in revocation, and one prior adjudication as a juvenile delinquent for a Class E felony. Additionally, the State stipulated to two mitigating sentencing factors: first, that Ramsey had accepted responsibility for his criminal conduct, and second, that he suffered from a mental condition that was insufficient to constitute a defense, but which significantly reduced his culpability for the charged offense. Ramsey's plea further stipulated that he would be sentenced to 105 to 138 months for the armed robbery charge, and to a consecutive sentence, within the trial court's discretion, of either 135 to 174 months or 255 to 318 months for the second-degree murder charge, thereby resulting in a total sentence of between 240 to 300 and 360 to 456 months imprisonment. After Ramsey and the State

presented evidence, the trial court imposed consecutive sentences of 105 to 138 months for armed robbery and 255 to 318 months for murder. Ramsey gave notice of appeal in open court.

Analysis

On appeal, Ramsey contends that the trial court abused its discretion by failing to adequately consider the mitigating factor that he suffered from a mental condition that reduced his culpability but was insufficient to constitute a defense. We disagree.

If a trial court departs from the presumptive range at sentencing, it "shall make findings of the aggravating and mitigating factors present in the offense[.]" N.C. Gen. Stat. § 15A-1340.16(c) (2013). However, "a trial judge need not justify the weight he attaches to any factor. He may properly determine that one factor in aggravation outweighs more than one factor in mitigation and vice versa." *State v. Lane*, 77 N.C. App. 741, 745, 336 S.E.2d 410, 413 (1985) (citation omitted). "A trial court's weighing of mitigating and aggravating factors will not be disturbed on appeal absent a showing that there was an abuse of discretion." *State v. Wampler*, 145 N.C. App. 127, 133, 549 S.E.2d 563, 568 (2001) (citation omitted). Thus, the decision "will not be disturbed unless it is manifestly unsupported by reason, or so

arbitrary that it could not have been the result of a reasoned decision." *Id.*

In the present case, Ramsey highlights the trial court's statement at the end of the sentencing hearing that it was not convinced that he fully accepted responsibility for his actions. This, Ramsey contends, shows that by imposing an aggravated-range sentence on the second-degree murder charge, the trial court disregarded the mitigating sentencing factors before it and therefore abused its discretion. This argument fails, however, because it is well established that, in weighing aggravating and mitigating factors, the trial court "may properly determine that one factor in aggravation outweighs more than one factor in mitigation and vice versa." *Lane*, 77 N.C. App. at 745, 336 S.E.2d at 413. Moreover, Ramsey stipulated to two aggravating factors and agreed to a specific sentence for armed robbery and a range of sentences for second-degree murder in his plea agreement. The sentences the trial court imposed fell within the agreed-upon sentencing range, both for second-degree murder and for the two offenses in total. Thus, we do not believe that the trial court's imposition of an aggravated-range sentence on the second-degree murder charge was "so arbitrary that it could not have been the result of a reasoned decision." *Wampler*, 145 N.C. App. at 133, 549

S.E.2d at 568. We therefore conclude that the trial court did not abuse its discretion. Accordingly, the trial court's judgments are

AFFIRMED.

Chief Judge MCGEE and Judge HUNTER, JR. concur.

Report per Rule 30(e).