MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Kyle Kipley Earley,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

September 16, 2024

Court of Appeals Case No.
23A-CR-2185

Appeal from the LaPorte Superior Court

The Honorable Jaime M. Oss, Judge

Trial Court Cause No.
46D01-2209-MR-11

Memorandum Decision by Judge Kenworthy
Judge Felix and Senior Judge Riley concur.

Kenworthy, Judge.

Case Summary

[1] A jury found Kyle Kipley Earley guilty of two counts of murder[1] for the stabbing deaths of his father and uncle. The trial court sentenced him to consecutive fifty-five-year terms of imprisonment. Earley appeals his sentence, raising one issue: Did the trial court abuse its discretion by sentencing Earley without first evaluating his competency? We affirm.

Facts and Procedural History

[2] In 2022, Earley lived with his father, John, and John's brother, Denis. John had Parkinson's disease and Denis helped care for him.

[3] On September 1, Denis was on the phone with his wife, Carol. They were just "chitchatting" when Carol heard "running and thumping and . . . breaking furniture" and heard Denis say, "Call 911. Kyle's killing me." *Tr. Vol. 3* at 93. Carol stayed on her cellphone with Denis and used a landline to call for help. She was still on the phone with Denis, who was "moaning and . . . sobbing," when Long Beach Police Department Chief Mark Swistek arrived at the Earley house. *Id.* at 95.

[4] Chief Swistek first encountered John, "bleeding quite heavily from his face [and] chest" and saying, "Help, help. Murder, murder. My son has killed me

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[1] Ind. Code § 35-42-1-1(1) (2018).

and my brother." *Tr. Vol. 2* at 190, 222. Chief Swistek then found Denis in the kitchen, suffering from extreme blood loss. Both men had been stabbed multiple times. As Chief Swistek called for assistance, he saw Earley walking through the house toward the front door. Chief Swistek stopped Earley, handcuffed him, and retrieved a knife from his front pants pocket. Later analysis of the knife showed the presence of DNA from John and Denis. Denis died at the scene of "exsanguination from multiple incised wounds." *Ex. Vol. 1* at 98. John was taken to the hospital and died about two weeks later from "fourteen sharp force injuries." *Id.* at 91.

[5] The State charged Earley with two counts of murder.[2] Earley filed a Notice of Defense of Mental Disease or Defect. The trial court ordered two doctors to evaluate Earley's competency to stand trial. The first doctor, a licensed clinical psychologist, noted Earley said he "may have been diagnosed with bipolar disorder or schizophrenia" but the doctor identified no "symptoms consistent with these major mental health diagnoses." *Id.* at 31. The doctor determined "with a reasonable degree of psychological certainty" that Earley could "reasonably understand the anticipated legal proceedings and will be able to rationally assist in the preparation of his defense." *Id.* at 28. The second doctor, a psychiatrist, likewise saw no evidence "characteristic of a mood condition[] or condition of thought impairment consistent with psychotic

[2] The State initially filed charges on September 2, 2022, alleging one count of murder for Denis and one count of attempted murder for John. *See Appellant's App. Vol. 2* at 18. After John's death, the State sought and was granted leave to amend the charge of attempted murder to a charge of murder. *See id.* at 26–27.

illness." *Id*. at 35. This doctor reported Earley was "able to comprehend the legal proceedings and able to assist an attorney in preparing a plan of defense" and was competent to stand trial. *Id.* at 38. She also reported Earley "was able to appreciate the wrongfulness of his conduct" at the time of the offense. *Id.* After these reports were filed with the trial court in late December 2022 and early January 2023, Earley withdrew his mental disease or defect defense.

[6] Earley's jury trial was held in July 2023. The jury found him guilty of both counts of murder. The trial court entered judgment of conviction on both counts and ordered a presentence investigation report ("PSI") to be prepared before sentencing. The probation officer preparing the PSI sent a questionnaire to Earley but did not meet with him personally. Earley ignored the first questionnaire the officer sent, and answered the second questionnaire only after the officer contacted the jail and asked about its status. The officer reported Earley returned the questionnaire "with limited information provided. Due to [Earley's] failure to fully cooperate . . . , limited information can be provided to the Court." *Id.* at 100. The questions and Earley's written answers were duplicated in the PSI:

> Tell me about what happened the day you were arrested: "A coup."
>
> How do you feel about what happened: "Very disturbed."
>
> Tell me about the victims: "I couldn't tell you the first thing about any victims."

> How do you think they feel about what you did? "I could only tell you about what is what from my own perspective."
>
> Why did you decide to commit the offense? "There was no decision making capacity afforded and no offense committed by me."
>
> What do you think about crime? "It should definitely be avoided at all or very near all costs."
>
> What part did others play in the offense? "It's been a long line of political conveniences since date of until the present."
>
> What part did drugs or alcohol play? "[L]ittle to none."
>
> Did you threaten or hurt anyone[?] "Not actively."

Id. at 104.

[7] At Earley's sentencing hearing in August, the trial court began by asking counsel if they were ready to move forward even though the probation department was unable to interview Earley. Both Earley's counsel and the State indicated they were ready to proceed with the information provided. Earley confirmed he had an opportunity to review the PSI and discuss it with his counsel, said he had no additions or corrections to the PSI, and stated he was "absolutely" ready to proceed. *Id.* at 206. Counsel made arguments about the sentence, and friends and family of the victims made statements in open court. Earley declined the opportunity to make a statement in allocution. The trial court sentenced Earley to serve a total of 110 years.

The trial court did not abuse its discretion in proceeding to sentencing without first *sua sponte* ordering a competency hearing.

[8] Earley contends his answers to the PSI questionnaire required the trial court to evaluate his competence before sentencing him and it was an abuse of discretion not to do so. He asks us to vacate his sentence and remand to the trial court for a competency hearing and resentencing.

[9] Earley cites Indiana Code Section 35-36-3-1 as authority for such a hearing. That Section provides:

> If *at any time before the final submission of any criminal case to the court or the jury* trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability.

I.C. § 35-36-3-1(a) (2022) (emphasis added). But Earley does not argue he was incompetent to stand *trial*, and this Court has previously held this statutory provision applies only to pretrial determinations of competency. *See Luster v. State*, 130 N.E.3d 131, 134 n.2 (Ind. Ct. App. 2019) (declining to apply the statute to a community corrections revocation proceeding, as that "is a matter that takes place after the final submission of a criminal case to the trier of fact"); *see also Donald v. State*, 930 N.E.2d 76, 79 (Ind. Ct. App. 2010) (same, in context of probation revocation proceeding).

[10] Even though Earley did not have a statutory right to a competency hearing, due process protects a person who lacks sufficient comprehension to understand criminal proceedings against him and to assist in his defense. *Smith v. State*, 443 N.E.2d 1187, 1188 (Ind. 1983); *see United States v. Collins*, 949 F.2d 921, 924 (7th Cir. 1991) ("Unquestionably, due process requires a defendant to be competent to stand trial. Also unquestionably, the need for competency extends beyond trial to the sentencing phase of a proceeding.") (citations and quotation omitted). But the right to a competency hearing is not absolute. *Mast v. State,* 914 N.E.2d 851, 856 (Ind. Ct. App. 2009), *trans. denied.* A competency hearing is required "only when a trial court is confronted with evidence creating a reasonable or *bona fide* doubt as to a defendant's competency." *Gibbs v. State*, 952 N.E.2d 214, 219 (Ind. Ct. App. 2011), *trans. denied*. Whether the defendant's competency is in reasonable doubt is a decision within the trial court's discretion and we will reverse only if the trial court has abused that discretion. *Id.* An abuse of discretion occurs when the decision is clearly against the logic and effect of the facts and circumstances before the court. *Id.*

[11] Earley relies solely on the written answers he gave to the PSI questionnaire as evidence creating a reasonable doubt as to his competency. He concedes the answers could be read as either "grotesquely cheeky or the workings of an irrational mind," but asserts the "evidence favors irrational." *Appellant's Br.* at 10.

[12] A defendant is not competent when he is unable to understand the proceedings and assist in the preparation of his defense. *Mast,* 914 N.E.2d at 856. Earley

contends his PSI questionnaire answers reflect his "sincere belief that the murders and underlying proceedings are the result of 'a coup' orchestrated by the political devising of others." *Appellant's Br.* at 9.[3] And he asserts that belief "prevented [him] from meaningfully interacting with defense counsel and understanding the reality of the proceedings against him." *Appellant's Br.* at 9.

[13] Undeniably, Earley gave odd answers to the PSI questionnaire. But he wrote his answers and mailed them in, and only after ignoring one questionnaire and then being prompted to answer a second. Because no one witnessed him answering the questions, it is difficult if not impossible to gauge his mood or attitude when he did so or to gain insight into what the answers mean about his mental state. Earley's characterization of those answers as reflective of his mental incompetence is unsupported by the record as a whole. Earley's competency was evaluated by two doctors before his trial who both determined he was mentally competent to stand trial. Upon receiving the doctors' reports, Earley withdrew his defense before a competency hearing was held. He proceeded to trial, during which there was no apparent indication he was incompetent. Eight months passed between the competency evaluations and the sentencing hearing but there was no indication his behavior markedly

[3] To the extent Earley's argument asserts his answers to the PSI questionnaire show signs of mental illness, we note mental illness and mental competency are not necessarily coextensive. *See, e.g.*, *A.A. v. Eskenazi Health/Midtown CMHC*, 97 N.E.3d 606, 612 (Ind. 2018) (noting Indiana courts distinguish between mental illness and mental competency and do not assume evidence of mental illness automatically leads to a determination of mental incompetency). Here, we are focused on whether Earley could understand the proceedings and assist his attorney.

changed in that time. Earley did not request a competency hearing prior to sentencing, and his behavior at the sentencing hearing seemingly raised no red flags. Earley's counsel interacted with him directly but expressed no concern about his ability to understand and assist in the proceedings.

[14] The trial court had the opportunity to observe Earley, both during his trial and at the sentencing hearing. At the sentencing hearing, Earley responded appropriately, if briefly, to questions asked by the trial court. The trial court's "observations of a defendant in court can be an adequate basis for finding that a competency hearing is not necessary." *Isom v. State*, 170 N.E.3d 623, 653 (Ind. 2021) (quoting *Cotton v. State*, 753 N.E.2d 589, 591 (Ind. 2001)). We will not "lightly disturb[]" a trial court's determination of the need for a competency hearing, *Mast*, 914 N.E.2d at 856, especially when the defendant asserts the trial court should have acted *sua sponte*. The record does not reflect reasonable or *bona fide* grounds to believe Earley lacked the ability to understand the proceedings and assist his attorney.

Conclusion

[15] The trial court did not abuse its discretion in sentencing Earley without first *sua sponte* holding a competency hearing.

[16] Affirmed.

Felix, J., and Riley, Sr. J., concur.

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