

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

AUGUST 1996 SESSION

<p>FILED</p> <p>September 4, 1996</p> <p>Cecil Crowson, Jr. Appellate Court Clerk</p>
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STATE OF TENNESSEE,

Appellee,

V.

RANDY BOYD LAYNE,

Appellant.

)
) C.C.A. No. 03C01-9511-CR-00374
)
) Hamilton County
)
) Honorable Douglas A. Meyer, Judge
)
) (Sentencing: Theft of Property over
) \$10,000- 18 cts., Theft of Property over
) \$ 1,000- 1ct.)

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OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
 Judge

OPINION

The appellant, Randy Boyd Layne, pled guilty to nineteen counts of theft of property. He received an effective sentence of fifteen years. On appeal, he contends that the trial court erred in sentencing him to incarceration instead of community corrections. We affirm.

At the sentencing hearing, the appellant's proof consisted of testimony of his reputation in the community, his religious and lifestyle changes, and his recent marriage. Based upon this proof that he had "turned over a new leaf," he requested alternative sentencing.

The state opposed the appellant's request. It offered proof that the appellant was an admitted professional criminal and of three enhancing factors to rebut the notion that alternative sentencing would be appropriate. The three enhancing factors included: (1) the appellant was the leader in the commission of an offense involving two or more criminal actors; (2) the offense involved more than one victim; and (3) the amount of personal or property damage was particularly great.

The appellant's motion for alternative sentencing was denied. The trial court concluded that in the interest of both justice and society and for the sake of deterrence, the appellant should serve his sentence in the Department of Correction. Moreover, the court stated that confinement was necessary to avoid depreciating the seriousness of the offense.

When a sentencing issue is appealed, this Court shall conduct a de novo review with the presumption that the trial court's findings are correct. Tenn. Code Ann. § 40-35-401 (d) (1990); State v. Byrd, 861 S.W.2d 377, 379 (Tenn. Crim. App. 1993). The presumption of correctness is conditioned upon an

affirmative showing, in the record, that the trial court considered the sentencing principles and all relevant facts and circumstances. State v. Ashby, 823 S.W.2d 166, 169 (Tenn. 1991).

In conducting a de novo review of a defendant's sentence, including the manner in which he or she is to serve the sentence, this Court must consider: (1) the evidence received at the sentencing hearing, (2) the presentence report, (3) the principles of sentencing and arguments to sentencing alternatives, (4) the nature and characteristics of the criminal conduct, (5) any mitigating and enhancement factors, (6) any statements made by the defendant in his or her own behalf, and (7) the defendant's potential for rehabilitation or treatment. Tenn. Code Ann. § 40-35-210 & 103 (1990).

The appellant stole nineteen vehicles in 250 days worth nearly \$350,000 in the aggregate. This figure excludes the value of personal items found in the vehicles which were either taken or cavalierly discarded by the appellant. He operated a classic "chop shop" business and was no neophyte to stealing trucks. The victims suffered serious monetary losses and inconvenience beyond a mere dollar figure.

The record reflects that the trial court followed the sentencing principles and imposed a lawful sentence. In denying appellant's motion for community corrections, the trial court emphasized: (1) the nature and number of the appellant's offenses, (2) the need for deterrence, and (3) the need to protect the interest of society. We will not disturb a trial court's sentence when statutory procedure is followed and the court's findings are supported by the record. Therefore, the judgment of the trial court is affirmed.

PAUL G. SUMMERS, Judge

CONCUR:

JOE B. JONES, Presiding Judge

DAVID G. HAYES, Judge