MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Christopher N. Peelman,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 15, 2023

Court of Appeals Case No. 23A-CR-1421

Appeal from the Switzerland Circuit Court

The Honorable W. Gregory Coy, Judge

Trial Court Cause No. 78C01-1809-F4-385

Memorandum Decision by Judge Crone
Judges Bailey and May concur.

Crone, Judge.

Case Summary

[1] Christopher N. Peelman pled guilty to level 4 felony child solicitation. The plea agreement provided for an eight-year maximum sentence, with executed time capped at five years. Following a sentencing hearing, the trial court imposed an aggregate eight-year sentence, with five years executed and three years suspended to probation. Peelman now appeals, claiming that his sentence is inappropriate in light of the nature of the offense and his character. Concluding that he has not met his burden to demonstrate that his sentence is inappropriate, we affirm.

Facts and Procedural History

[2] In September 2018, thirty-five-year-old Peelman began sending messages via Facebook to K.K., whom he believed to be a fifteen-year-old female. In reality, K.K. was a fictitious profile created by the Switzerland County Sheriff's Department as part of an operation to identify child predators. In these conversations with K.K., Peelman discussed smoking marijuana and meeting up with her to have sex. K.K. informed Peelman approximately five times that she was fifteen years old. Peelman told K.K. that he was thirty-two years old and that he had a prior relationship with a fifteen-year-old girl. Peelman and K.K. agreed to meet up at K.K.'s grandmother's house. Peelman told K.K. that he drove a black Volkswagen Jetta with tinted windows. He told her that he would bring marijuana and condoms. Peelman drove to the agreed-upon meeting location, and officers arrested him. Officers searched his vehicle and found a black backpack containing marijuana and six condoms.

[3] The State charged Peelman with level 4 felony child solicitation, class A misdemeanor possession of marijuana, and class C misdemeanor possession of paraphernalia. The State subsequently added a charge of level 4 felony attempt to commit sexual misconduct with a minor. On April 10, 2023, Peelman pled guilty to level 4 felony child solicitation in exchange for dismissal of the remaining charges. The plea agreement provided that his maximum sentence would be capped at eight years, with executed time capped at five years. Following a sentencing hearing, the trial court sentenced him to eight years, with five years executed and three years suspended to probation. This appeal ensued.

Discussion and Decision

[4] Peelman asks us to reduce his sentence pursuant to Indiana Appellate Rule 7(B), which states, "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." When reviewing a sentence, our principal role is to leaven the outliers rather than necessarily achieve what is perceived as the correct result in each case. *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). "We do not look to determine if the sentence was appropriate; instead we look to make sure the sentence was not inappropriate." *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012). In assessing whether a sentence is inappropriate, appellate courts may consider whether "a portion of the sentence is ordered suspended or is otherwise crafted using any of the variety of sentencing tools available to the

trial judge." *Davidson v. State*, 926 N.E.2d 1023, 1025 (Ind. 2010). Peelman bears the burden to show that his sentence is inappropriate. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g* 875 N.E.2d 218.

[5] "[S]entencing is principally a discretionary function in which the trial court's judgment should receive considerable deference." *Cardwell*, 895 N.E.2d at 1222. "Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant's character (such as substantial virtuous traits or persistent examples of good character)." *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). As we assess the nature of the offense and character of the offender, "we may look to any factors appearing in the record." *Boling v. State*, 982 N.E.2d 1055, 1060 (Ind. Ct. App. 2013). Ultimately, whether a sentence should be deemed inappropriate "turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Cardwell*, 895 N.E.2d at 1224.

[6] Regarding the nature of the offense, we observe that "the advisory sentence is the starting point the Legislature selected as appropriate for the crime committed." *Fuller v. State*, 9 N.E.3d 653, 657 (Ind. 2014). The sentencing range for a level 4 felony is between two and twelve years, with an advisory sentence of six years. Ind. Code § 35-50-2-5.5. Pursuant to the plea agreement, the trial court here imposed an eight-year aggregate sentence, with five years executed

and three years suspended to probation, which was well below the maximum statutory twelve-year executed sentence.

[7] Peelman urges that he should have been given an even lesser sentence because his action of soliciting a fictitious fifteen-year-old child did not actually harm any real person. But the fact that the intended victim was a juvenile is relevant to the nature of the offense, and our supreme court has held that crimes against children are particularly contemptible. *Harris v. State*, 897 N.E.2d 927, 929 (Ind. 2008). Moreover, it is well established that "[a] defendant's conscious choice to enter a plea agreement that limits the trial court's discretion to a sentence less than the statutory maximum should usually be understood as strong and persuasive evidence of sentence reasonableness and appropriateness." *Merriweather v. State*, 151 N.E.3d 1281, 1286 n.2 (Ind. Ct. App. 2020) (quoting *Childress v. State*, 848 N.E.2d 1073, 1081 (Dickson, J., concurring)). Peelman's agreement here is strong and persuasive evidence that the eight-year aggregate sentence, with five years executed and three years suspended, is not inappropriate in light of the nature of his offense, and he fails to offer us compelling evidence that would persuade us that a sentence reduction is warranted.

[8] We reach a similar conclusion when considering Peelman's character. An offender's character is shown by his "life and conduct." *Adams v. State*, 120 N.E.3d 1058, 1065 (Ind. Ct. App. 2019). We assess a defendant's character by engaging in a broad consideration of his qualities. *Madden v. State*, 162 N.E.3d 549, 564 (Ind. Ct. App. 2021). A typical factor we consider when examining a

defendant's character is criminal history. *McFarland v. State*, 153 N.E.3d 369, 374 (Ind. Ct. App. 2020), *trans. denied* (2021).

[9] Peelman's criminal history is quite lengthy, spanning over twenty years. Peelman has been convicted of five misdemeanors and two felonies involving primarily substance-abuse-related crimes. His poor character is also reflected in the fact that he violated his probation at least four times, and he was arrested and charged with the current offense while on probation for operating a vehicle while intoxicated. Although Peelman insists that after his arrest he "changed his life by moving to a new location and limited himself to wholesome activities[,]" Appellant's Br. at 11, we may not simply ignore his past repeated acts, which demonstrate his disdain for the rule of law. Further, as we concluded above regarding the nature of his offense, his plea agreement limiting the trial court's sentencing discretion to a sentence below the statutory maximum is strong and persuasive evidence that the eight-year aggregate sentence, with five years executed and three years suspended, is not inappropriate in light of his character. We affirm the sentence.

[10] Affirmed.

Bailey, J., and May, J., concur.