

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Charles J. Miles III,
Appellant-Petitioner,

v.

State of Indiana,
Appellee-Respondent

September 18, 2023

Court of Appeals Case No.
23A-CR-673

Appeal from the
Elkhart Superior Court

The Honorable
Kristine A. Osterday, Judge

Trial Court Cause No.
20D01-2207-F5-175

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

- [1] Charles J. Miles III appeals his six-year sentence for Level 5 felony domestic battery and Class B misdemeanor criminal mischief. He now appeals, arguing his sentence is inappropriate. We affirm.

Facts and Procedural History

- [2] In 2020, Miles was convicted, for the second time, of battering M.G., the mother of one of his children. Miles was sentenced to five years, with one year in prison, one year on community corrections, and three years of probation. Miles started community corrections on May 6, 2022. Two months later, on July 8, Miles was in a car with M.G. and their four-year-old daughter. Miles and M.G. got into an argument, during which Miles took M.G.'s phone from her hands and smashed it on the ground, breaking it. As M.G. attempted to leave the car, Miles grabbed her by the arm and pulled her back inside. This caused M.G. to bleed and left scratch marks up the length of her arm from her elbow to her armpit. M.G. called the police, and Miles was arrested.
- [3] The State charged Miles with Level 5 felony domestic battery (elevated due to the 2020 conviction), Level 6 felony domestic battery, and Class B misdemeanor criminal mischief (for breaking M.G.'s phone). Miles later pled guilty to all counts without the benefit of a plea agreement. At the sentencing hearing, the trial court merged the Level 6 felony into the Level 5 felony and

entered judgment of conviction for Level 5 felony domestic battery and Class B misdemeanor criminal mischief. The court found several aggravating factors: at only twenty-six years old, Miles has a history of criminal activity, including three prior convictions for domestic battery (two of which were against M.G.); Miles was on community corrections for his 2020 battery of M.G. when he committed the present offenses; and Miles has been offered programming and alternative sanctions in the past (such as Recovery While Incarcerated and Moral Reconciliation Therapy), but he did not take advantage of these opportunities. The court found one mitigating factor: Miles accepted responsibility for his actions by pleading guilty without the benefit of a plea agreement. Finding the aggravating circumstances outweighed the mitigating circumstance, the court sentenced Miles to six years for Level 5 felony domestic battery and 180 days for Class B misdemeanor criminal mischief, to run concurrently.

[4] Miles now appeals.

Discussion and Decision

[5] Miles contends his six-year sentence is inappropriate and asks us to reduce it to four years. Indiana Appellate Rule 7(B) provides that an appellate 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.” The appellate court’s role under Rule 7(B) is to “leaven the outliers,” and “we reserve our 7(B)

authority for exceptional cases.” *Faith v. State*, 131 N.E.3d 158, 159-60 (Ind. 2019) (quotation omitted). “Whether a sentence is inappropriate ultimately turns on the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case.” *Thompson v. State*, 5 N.E.3d 383, 391 (Ind. Ct. App. 2014) (citing *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008)). Because we generally defer to the judgment of trial courts in sentencing matters, defendants must persuade us that their sentences are inappropriate. *Schaaf v. State*, 54 N.E.3d 1041, 1044-45 (Ind. Ct. App. 2016).

[6] The sentencing range for a Level 5 felony is one to six years, with an advisory sentence of three years. Ind. Code § 35-50-2-6(b). The sentencing range for a Class B misdemeanor is up to 180 days. I.C. § 35-50-3-3. Here, the trial court imposed the maximum sentence of six years for the Level 5 felony and 180 days for the Class B misdemeanor, to be served concurrently.

[7] As to the nature of the offenses, Miles was angry that M.G. was on the phone, so he removed the phone from her hand and smashed it on the ground. He then grabbed M.G. and left bloody scratch marks down the length of her upper arm. Miles committed these acts in the presence of his four-year-old daughter. Miles argues the maximum sentence is unwarranted because these circumstances “do not represent the worst of the worst of offenses.” Appellant’s Br. p. 6. But even if the nature of the offenses alone does not warrant such a sentence, Miles’s character does.

[8] Miles has three prior convictions for domestic battery, two of which were against M.G., and the third was against the mother of Miles's other child. Two of these three convictions occurred in the presence of a minor child. For these convictions, Miles has served time on probation, on community corrections, and in prison and has completed various programming, including Moral Reconciliation Therapy with a domestic-violence component and Recovery While Incarcerated with a focus on anger management. But Miles did not apply what he learned in these programs and committed the present offenses just two months after being placed on community corrections for his 2020 domestic battery against M.G. As the trial court highlighted, Miles scored an 8 on the Ontario Domestic Assault Risk Assessment. The court explained that a score of 8 "is the time that we sound the alarm" and that the number of Miles's domestic-battery convictions was "highly concerning" given his age. Tr. Vol. II p. 70.

[9] Miles has failed to persuade us that his six-year sentence is inappropriate.

[10] Affirmed.

Mathias, J., and Pyle, J., concur.