MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ryan T. Halligan,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 20, 2022

Court of Appeals Case No. 21A-CR-2839

Appeal from the Bartholomew Superior Court

The Honorable James D. Worton, Judge

Trial Court Cause No. 03D01-2010-F1-5239

Brown, Judge.

[1] Ryan T. Halligan appeals his sentence for attempted murder as a level 1 felony and asserts that his sentence is inappropriate in light of the nature of the offense and his character. We affirm.

Facts and Procedural History

[2] On the morning of October 23, 2020, Emaly Baxter drove into the parking lot of an ice-skating rink in Bartholomew County at which she taught lessons. While Baxter was seated in her vehicle, Halligan crashed into her, causing her vehicle to be "totaled completely." Appellant's Appendix Volume II at 183. Baxter called 911. Halligan then entered her vehicle and demanded she end her phone call. Halligan punched, strangled, and stabbed Baxter and told her he was going to kill her. An officer arrived at the scene and observed a man bent over Baxter and saw the man flee, and Halligan was arrested about six hundred feet away. An officer discovered a bloody sweatshirt and knife under stacks of plywood behind which Halligan had attempted to conceal himself. Baxter was found on the ground in blood in the parking lot, and first aid was provided until she was flown to the hospital.

[3] On October 27, 2020, the State charged Halligan with: Count I, attempted murder as a level 1 felony; Count II, aggravated battery as a level 3 felony; Count III, criminal confinement as a level 3 felony; Count IV, strangulation as a level 6 felony; Count V, auto theft as a level 6 felony; Count VI, operating a vehicle while intoxicated and endangering a person as a class A misdemeanor; and Count VII, interference with the reporting of a crime as a class A misdemeanor. The State also alleged Halligan was an habitual offender

because he had "accumulated at least two (2) prior unrelated felony convictions" and was convicted and sentenced for those offenses on May 2, 2012, and June 18, 2009. *Id.* at 26.

[4] On October 25, 2021, Halligan and the State entered a plea agreement pursuant to which he agreed to plead guilty to Count I, attempted murder as a level 1 felony, admit the habitual offender enhancement, and pay restitution to Baxter in an amount to be determined at sentencing. The State agreed to dismiss the remaining counts and other charges under cause numbers 03D01-2010-F6-4951 ("Cause No. 4951") and 03D01-2010-F3-5107 ("Cause No. 5107"), and the parties agreed that Halligan's total aggregate sentence would not exceed fifty years.[1]

[5] On November 30, 2021, the court held a sentencing hearing. Halligan gave a statement expressing remorse, asking Baxter for forgiveness, and discussing his mental health and issues with addiction. The court took judicial notice of the presentence investigation report ("PSI"). Baxter testified and recounted the day of October 23, 2020, stating that she had been going to work when she "rolled [her] window down, because . . . it looked like somebody needed help." Transcript Volume II at 31. She stated that Halligan asked her for cigarettes,

[1] Under Cause No. 4951, the State charged Halligan in 2020 with unlawful possession of a syringe as a level 6 felony and possession of paraphernalia as a class A misdemeanor. Under Cause No. 5107, the State charged Halligan in 2020 with: Count I, burglary resulting in bodily injury as a level 3 felony; Count II, strangulation as a level 6 felony; Count III, domestic battery as a class A misdemeanor; and Count IV, interference with the reporting of a crime as a class A misdemeanor.

she gave him three, and "the lighter didn't work, . . . [and] he got upset, very upset." *Id.* According to Baxter, at that point she thought "I have to escape," "drove to the front of the building," and called her mother on the phone, and Halligan hit her with his car.

[6] She testified that, once attacked, she "was sliding out on [her] back, . . . and then . . . thrashing around as much as [she could]." *Id.* at 34. She stated that her injuries included two fractured bones in her skull, a collapsed lung, her "head bled internally," fourteen different knife wounds, wounds due to the strangulation, continuing numbness in her face, and a concussion. The deputy prosecutor played the recording of the 911 call, in which Baxter tells the dispatcher that Halligan hit her car with his, "[p]lease he is at my window," "[n]o, no, no, please . . . oh my God . . . please don't hurt me," and repeatedly screams. *Id.* at 41. Baxter testified she required four months "before [she] stepped back on the ice," she could not teach while recovering, and forgiveness "will maybe take time." *Id.* at 38, 43.

[7] The court found the following aggravating factors: Halligan's extensive criminal history, his multiple prior revocations of probation, his unsuccessful treatment outside a penal facility, the harm, injury, loss, or damage suffered by the victim was significant and greater than the elements necessary to prove the commission of the offense, and Halligan's pre-trial jail conduct and jail rule violations. The court found Halligan's mental health issues and his plea of guilty to the highest charge as mitigating factors, but stated the plea of guilty was "a slight mitigator." Appellant's Appendix Volume II at 48. The court

stated, "this was a horrific, vicious crime," and "[t]his is one of the, if not the worst crime that I have dealt with on the Bench." Transcript Volume II at 48-49. The court found that the aggravating factors significantly outweighed the mitigating factors, sentenced Halligan to thirty-five years for attempted murder, and enhanced the sentence by fifteen years, due to Halligan being an habitual offender, for an aggregate sentence of fifty years.

Discussion

[8] The issue is whether Halligan's sentence is inappropriate in light of the nature of the offense and his character. Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

[9] Halligan argues the nature of his offense and his character do not warrant a fifty-year sentence. He asserts that "the sentence imposed by the trial court is inappropriate because the trial court failed to take his remorse, the circumstances surrounding the incident, his willingness to make restitution, his

accomplishments while in jail, and his plans for continued recovery into account." Appellant's Brief at 13.[2]

[10] Ind. Code § 35-50-2-4 provides that a person who commits a level 1 felony shall be imprisoned for a fixed term of between twenty and forty years with the advisory sentence being thirty years. Ind. Code § 35-50-2-8(i) provides that the court shall sentence a person found to be an habitual offender to an additional fixed term that is between six and twenty years for a level 1 felony, and an additional term imposed under this subsection is nonsuspendible.

[11] Our review of the nature of the offense reveals that Halligan and Baxter were strangers, the attack was unprovoked and vicious, and Baxter suffered extensive injuries and required multiple months to recover physically.

[12] Our review of the character of the offender reveals that Halligan pled guilty to attempted murder as a level 1 felony pursuant to a plea agreement which

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[2] Halligan also claims that the trial court failed to recommend him for the Recovery While Incarcerated or Purposeful Incarceration programs. While Halligan raised the single issue of whether his sentence is inappropriate, he appears to conflate two separate sentencing standards: whether the trial court abused its discretion in identifying mitigating and aggravating factors and whether his sentence is inappropriate pursuant to Ind. Appellate Rule 7. "As our Supreme Court has made clear, inappropriate sentence and abuse of discretion claims are to be analyzed separately." *King v. State*, 894 N.E.2d 265, 267 (Ind. Ct. App. 2008) (citing *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007)). Accordingly, "an inappropriate sentence analysis does not involve an argument that the trial court abused its discretion in sentencing the defendant." *Id.* To the extent Halligan argues that the trial court abused its discretion, we need not address this issue because we find that his sentence is not inappropriate. *See Chappell v. State*, 966 N.E.2d 124, 134 n.10 (Ind. Ct. App. 2012) (noting that any error in failing to consider the defendant's guilty plea as a mitigating factor is harmless if the sentence is not inappropriate) (citing *Windhorst v. State*, 868 N.E.2d 504, 507 (Ind. 2007) (holding that, in the absence of a proper sentencing order, Indiana appellate courts may either remand for resentencing or exercise their authority to review the sentence pursuant to Ind. Appellate Rule 7(B)), *reh'g denied*). Even if we were to address Halligan's abuse of discretion argument, we would not find it persuasive in light of the record.

provided that, in exchange for his guilty plea, the State would dismiss the other counts and charges under two other cause numbers which included burglary resulting in bodily injury as a level 3 felony and strangulation as a level 6 felony. As a juvenile, Halligan, who was born in 1991, had allegations of two counts of theft, battery resulting in bodily injury, and possession of paraphernalia and marijuana. As an adult, Halligan was convicted of theft as a class D felony and criminal trespass as a class A misdemeanor in 2009; theft as a class D felony in 2010; dealing in a Schedule IV controlled substance as a class C felony in 2012; disorderly conduct as a class B misdemeanor, possession of a controlled substance as a class A misdemeanor, and possession of paraphernalia as a class C misdemeanor in 2016; unlawful possession of a syringe as a level 6 felony in 2018; conversion as a class A misdemeanor in 2019; and conversion as a class A misdemeanor in 2020. The PSI indicates that his "lengthy criminal history . . . includes prison, jail, work release and probation," and he "has had petitions to revoke probation filed." Appellant's Appendix Volume II at 161. The court described Halligan's criminal history as "very extensive." Transcript Volume II at 48.

[13] With respect to his mental health, the PSI states that Halligan reported that he has been diagnosed with schizophrenia, psychosis, and manic depression, and he is currently prescribed Wellbutrin and Zyprexa. With respect to substance use, the PSI indicates that Halligan reported that his drug of choice was methamphetamine, he used it regularly starting at age sixteen, he used heroin in small amounts but only to help counter the effects of the methamphetamine,

and that he now "hates" drugs and never wants to use again. Appellant's Appendix Volume II at 163. The PSI indicates that Halligan was ordered to complete a drug abuse evaluation in 2009 and sentenced to a facility affording him the opportunity to utilize substance abuse programs in 2012. He reported that he completed the CLIFF Program while in prison, that he graduated from the BART Program and the Aftercare Program in 2021, and that he had been sober since October 2020. At sentencing, Halligan stated: "I can't explain what I was thinking, I was on drugs and off of my medication. I have never have acted the way . . . I wish, I could take everything back." Transcript Volume II at 26. A psychotherapy treatment plan dated June 24, 2021, states: "[Halligan] is 30 y/o Caucasian male with Hx of methamphetamine addiction and states he has experienced methamphetamine induced psychosis. [Halligan] reports prior Dx of Schizophrenia and Bipolar I." Defendant's Exhibit A. The court found that Halligan has had the opportunity for treatment in the past and has not been successful. Halligan also reported having two jail rule violations related to altercations with jail staff.

[14] After due consideration, we conclude that Halligan has not sustained his burden of establishing that his sentence is inappropriate in light of the nature of his offense and his character.

[15] For the foregoing reasons, we affirm Halligan's sentence.

[16] Affirmed.

Mathias, J., and Molter, J., concur.