

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Billy Miles,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 30, 2024

Court of Appeals Case No.
23A-CR-1838

Appeal from the Putnam Circuit
Court

The Honorable Matthew L.
Headley, Judge

Trial Court Cause No.
67C01-2210-F4-893

Memorandum Decision by Judge Bradford
Chief Judge Altice and Judge Felix concur.

Bradford, Judge.

Case Summary

- [1] Billy Miles was charged with numerous sex offenses after his then-sixteen-year-old granddaughter had observed him engaging in sexual activity with her twin brother and reported the activity to her mother. After Miles pled guilty to two counts of Level 4 felony sexual misconduct with a minor, the trial court sentenced him, in accordance with the terms of his plea agreement, to a twelve-year sentence, with ten years executed in the Department of Correction (“DOC”) and two years suspended to probation. On appeal, Miles contends that his sentence is inappropriate. Because we disagree, we affirm.

Facts and Procedural History

- [2] On October 17, 2022, Miles was on vacation in Alabama with his family, including his two sixteen-year-old grandchildren, M.B.1 and M.B.2. M.B.1 is a male who has been diagnosed with a mildly-severe learning disability and ADHD. M.B.1 also suffers from a developmental disability and is “estimated to [function two] years behind his current age.” Appellant’s App. Vol. II p. 22. M.B.2 is M.B.1’s twin sister. During the vacation, M.B.2 observed Miles climb into M.B.1’s bed and touch M.B.1’s genitals. The vacation ended after M.B.2 reported what she had seen.
- [3] After the family returned to Indiana, M.B.1 was forensically interviewed. M.B.1 confirmed that Miles had touched his penis while on vacation in Alabama. M.B.1 also disclosed various other sexual encounters with Miles,

including encounters in Miles's home, in a barn on Miles's property, in a camper, and in M.B.1's home. M.B.1 further disclosed that while most of the encounters involved touching M.B.1's penis, Miles had penetrated M.B.1's anus with his penis on at least one occasion.

[4] Following M.B.1's disclosure of his frequent sexual encounters with Miles, Indiana State Police Detective Ryan Winters interviewed Miles, who confessed that he had touched M.B.1's penis with his hand approximately twenty-seven separate times. Miles further confessed to having placed his mouth on M.B.1's penis one time and having engaged in penetrative sex two times. Miles admitted that "the only reason [he had] stopped" the abuse was "because [his] granddaughter [had seen him] doing it." Tr. Vol. II p. 114.

[5] On October 26, 2022, the State charged Miles with two counts of Level 4 felony sexual misconduct with a minor and five counts of Level 5 felony misconduct with a minor. On June 22, 2023, Miles and the State entered into a plea agreement, by the terms of which Miles agreed to plead guilty to two counts of Level 4 felony sexual misconduct with a minor in exchange for the State dismissing the remaining charges. The parties further agreed that Miles's "sentence shall be open to argument, except the parties agree the total sentence shall be capped at twelve (12) years and the executed sentence shall be capped at ten (10)" years. Appellant's App. Vol. II p. 98. The trial court accepted Miles's guilty plea and, on July 12, 2023, sentenced him to twelve years, with ten years executed in the DOC and two years suspended to probation.

Discussion and Decision

- [6] Indiana Appellate Rule 7(B) provides that “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.” In analyzing such claims, we “concentrate less on comparing the facts of [the case at issue] to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant’s character.” *Paul v. State*, 888 N.E.2d 818, 825 (Ind. Ct. App. 2008) (internal quotation omitted), *trans. denied*. The defendant bears the burden of persuading us that his sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).
- [7] Miles was convicted of two counts of Level 4 felony sexual misconduct with a minor. Indiana Code section 35-50-2-5.5 provides that “[a] person who commits a Level 4 felony shall be imprisoned for a fixed term of between two (2) and twelve (12) years, with the advisory sentence being six (6) years.” The trial court sentenced Miles to an aggravated twelve-year sentence. Miles contends that his sentence is inappropriate in light of the nature of his offenses and his character, arguing that he had “accepted responsibility for his actions, had no criminal history, suffered from serious health concerns, was remorseful, and was a low risk to reoffend.” Appellant’s Br. pp. 6–7.

[8] In arguing that his sentence is inappropriate, Miles makes no assertion that his sentence was inappropriate in light of the nature of his offenses, which we find to be truly horrendous. Again, Miles repeatedly sexually abused his mentally-disabled grandson, totaling, by Miles's own admission, nearly thirty incidents of sexual abuse. In committing this abuse, Miles violated his position of trust with M.B.1, who was particularly vulnerable because of his disability. *See Baumholser v. State*, 62 N.E.3d 411, 418 (Ind. Ct. App. 2016) (considering defendant's violation of a position of trust when determining that his sentence was not inappropriate in light of the nature of his offense), *trans. denied*. In addition to violating M.B.1's trust, Miles also violated his daughter's trust by "relentlessly sexually abus[ing]" her son. Tr. Vol. II p. 113. Miles admitted that the "only reason" the abuse had stopped was because his "granddaughter [had seen him] doing it." Tr. Vol. II p. 114. In our view, the repeat nature of the sexual abuse, perpetrated against a vulnerable victim, places Miles's offenses "in the same league as the worst sex offenses." *Purvis v. State*, 829 N.E.2d 572, 589 (Ind. Ct. App. 2005), *trans. denied*.

[9] As for his character, Miles points to the fact that he has been married to his spouse for fifty years and has been gainfully employed since he was nineteen years old. "[E]mployment is not necessarily mitigating," *Pelissier v. State*, 122 N.E.3d 983, 991 (Ind. Ct. App. 2019), *trans. denied*, and Miles has failed to explain how either his marital status or his employment records reflect well on his character given the nature of his offenses, which again was sexually abusing his mentally-disabled grandson. Miles also cites his poor health and the fact

that he does not have a criminal history. The trial court heard testimony suggesting that “most sex offenders don’t have a criminal history,” indicating that Miles lack of a criminal history does not necessarily reflect well on a defendant’s character. Tr. Vol. II p. 77. In a similar vein, we have previously concluded that a lack of criminal history does not reflect well on an individual’s character when, as was the case here, the individual “was leading a less than law-abiding life” by committing ongoing, repeated criminal acts. *Bostick v. State*, 804 N.E.2d 218, 225 (Ind. Ct. App. 2004).

[10] Further, while Miles claims to have taken responsibility for his actions, he also suggested that he had not been fully responsible for his actions, claiming that certain medication that he takes had caused him to have impulse-control issues. Despite having admitted to engaging in dozens of episodes of sexual abuse, Miles pled guilty to only two offenses and, as a result of his plea, numerous other criminal charges were dismissed and his sentence was capped at twelve years. Thus, while Miles took responsibility for at least some of his actions by pleading guilty, his guilty plea is not necessarily a sign of remorse as he also received a substantial benefit by doing so. The trial court also heard evidence that Miles had shown no remorse during his presentence-investigation interview, instead focusing “mostly on himself” and how he was upset with how he had been treated in jail. Tr. Vol. II p. 71. Miles has failed to prove that his sentence is inappropriate in light of the nature of his offenses and his character. *See Sanchez*, 891 N.E.2d at 176 (providing that the appellant bears the burden of proving that their sentence is inappropriate).

[11] The judgment of the trial court is affirmed.

Altice, C.J., and Felix, J., concur.