



---

ATTORNEY FOR APPELLANT

Donald R. Shuler  
Goshen, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana

Samuel J. Dayton  
Deputy Attorney General  
Indianapolis, Indiana

---

IN THE  
COURT OF APPEALS OF INDIANA

---

Mario M. Angulo, Jr.

*Appellant-Defendant,*

v.

State of Indiana,

*Appellee-Plaintiff.*

July 14, 2022

Court of Appeals Case No.  
21A-CR-1465

Appeal from the Elkhart Circuit  
Court

The Honorable Michael A.  
Christofeno, Judge

Trial Court Cause No.  
20C01-1912-MR-5

**Altice, Judge.**

### Case Summary

[1] Mario M. Angulo appeals his convictions for murder, Level 2 felony robbery resulting in serious bodily injury, and two counts of Level 3 felony criminal

confinement. Angulo claims that the trial court abused its discretion in granting the State’s motion for joinder that permitted Angulo to be tried with a codefendant, which he claims impinged on his right to “compel witnesses to testify on his behalf,” *appellant’s brief* at 19, that the trial court erred in granting the State’s motion in limine that unfairly limited his right to cross-examine and impeach a witness, and that he was denied his right to present a defense because the trial court restricted him from questioning a witness on direct examination. Angulo further claims that the evidence was insufficient to support the robbery conviction and that his sentence was inappropriate in light of the nature of the offenses and his character.

[2] We affirm.

## **Facts and Procedural History**

[3] Tylor Saunders owned a residence in Elkhart County that became a frequent location for him and other individuals to gather and “get high” on methamphetamine and other drugs. *Transcript Vol. IV* at 220. Those who participated in such activities included Angulo, Jose DeJesus Lopez Jr., Hope Lowry, Donald Owen, Matt Murzynski, and Kimberly Dyer.

[4] Angulo spent a lot of time around various members of the Latin Kings gang, and he eventually joined as a member or became closely affiliated with them. Many of the gang members, including Owen, who was referred to as “King Duke,” frequently visited Saunders’s residence to use drugs. *Transcript Vol. IV*

at 219, 250. The gang always treated “snitching” as a cardinal sin. *Transcript Vol. XII* at 91.

- [5] Sometime in October 2019, Dyer invited Lopez to Saunders’s residence. Several individuals were present, including members of the Latin Kings. Also present was Robert Porter who was selling marijuana. Porter would frequently accept jewelry as payment in exchange for marijuana. When Porter arrived, he was wearing some jewelry, including a Freemason ring that belonged to his grandfather.
- [6] Shortly after Lopez arrived at the residence, Dyer handed him two sheets of paper that included a bubble chart that resembled a seating layout for a wedding. Dyer stated that the papers belonged to an individual by the name of Ashley Bope. Saunders also studied the documents, and he and Dyer came to believe that one of the papers contained names of people who were providing information to the police about criminal activity.
- [7] Later that day, Angulo, Murzynski, and Lowry began searching Dyer’s belongings “due to suspicions” that she was working with the police. *Transcript Vol. VI* at 94-95. They discovered a notebook with the names of most of the people who were at the house, along with a design of Saunders’s residence.
- [8] Murzynski always believed that Dyer was responsible for sending his brother to prison, and after seeing the notebook, he ordered Dyer to the basement. Several individuals, including Angulo, interrogated Dyer about the notebook. Dyer started to scream and stated that the notebook was not hers and that she

had stolen it from Bope. Angulo and Murzynski were upset that Dyer was not providing them with the answers they wanted to hear. When the interrogation temporarily ceased, Porter stayed in the basement with Dyer to make sure that she did not escape while the others were upstairs.

[9] At some point, Angulo told Lopez that Dyer was in the basement and stated that they could not let her go because she was a snitch. Lopez walked down to the basement and saw Dyer lying on the floor. Porter was standing next to her, holding a rifle. After unsuccessfully trying to convince Angulo to release Dyer, Lopez left the residence.

[10] The general mood towards Porter changed when others heard Dyer scream that Porter was trying to rape her. When Porter walked upstairs and tried to leave the residence, Angulo prevented him from leaving. Sometime later, Angulo ordered Porter back to the basement. As Porter walked into the basement, he noticed that Dyer was bound with zip ties and was lying on her stomach. Her mouth was partially covered in duct tape, and she had a “fat lip,” a bloody nose, and her face “looked messed up.” *Transcript Vol. VI* at 111.

[11] At some point, Angulo contacted Owen and told him to come to the residence with a gun because he had planned a robbery. When Owen arrived, he was holding a knife. Murzynski stated that Porter was wearing jewelry, and Owen replied, “Oh, I gotta get paid.” *Id.* at 116-17. Angulo, Owen, and Murzynski then confronted Porter. Owen began punching Porter, and Porter—fearing for his safety—handed Owen the jewelry that included his grandfather’s ring. One

of the individuals then used zip ties to bind Porter's hands and ankles. Angulo, Owen, and Murzynski kicked Porter in his face, stomach, and back.

Approximately two hours later, Angulo used a torch to burn off Porter's zip ties, causing Porter to suffer "excruciating" pain and burn marks. *Id.* at 121.

[12] Angulo and Murzynski then directed Porter upstairs to the kitchen. Murzynski placed a towel over Porter's head, and Owen started punching Porter in the face. Murzynski took out his cellphone, began to film Porter and instructed him to accept fault for "what was going on." *Id.* at 126-27. Owen and Murzynski then made Porter crawl into a dog crate and eat dog food and a spider and extinguish a cigarette with his tongue.

[13] In the meantime, Angulo continued to interrogate Dyer about the papers she had and began to waterboard her. The waterboarding lasted nearly fifteen minutes, with pauses for Angulo to refill a water pitcher. Dyer was then pushed into a closet. She had been beaten, her mouth was duct-taped shut, and she was bound with zip ties.

[14] Porter was again brought down to the basement where he noticed Angulo and Murzynski standing next to Dyer. Angulo had a knife in his hand, and he and Murzynski were discussing cutting off Dyer's toes. Their remarks included, "she didn't flinch on this one" and "she must be, like, a tough bitch." *Id.* at 132.

[15] Porter was again taken up to the kitchen, whereupon Owen ordered him to write down a list of his children's names. Owen threatened to kill the children

if Porter told anyone what had happened. After Porter wrote a list of fictitious names, he was told to go back to the basement with Angulo and Murzynski, where he was again bound with zip ties.

[16] At some point, Porter heard Owen say, “put them to sleep” or “put her to sleep,” which Porter understood to mean that either he or Dyer, or both, were going to be killed. *Id.* at 138-39. Porter noticed that Dyer had been bound with duct tape from her head to her shoulders “like a mummy” and was groaning. *Id.* at 140.

[17] Murzynski ordered Lowry to retrieve a bottle of bleach from the kitchen. When she returned, Angulo and Murzynski poured bleach down Dyer’s throat with a hose. Angulo then told Porter that if he wanted to get out of the basement alive, he needed to help strangle Dyer. Angulo gave Porter one end of the hose and told him to hold onto it like an anchor. Angulo wrapped the hose around Dyer’s neck, tightened it, and choked her. Angulo then “snapped,” picked up a broken glass bottle, and slit Dyer’s throat with it. *Transcript Vol. VII* at 58-60, 62. Angulo cut Dyer multiple times, resulting in her inability to breathe. Dyer eventually died from her injuries.

[18] As Porter was walking upstairs, Owen followed him and slashed Porter’s wrists with a large knife. The cut was so deep that Porter could see “all the insides” and the “meat and all that was coming out.” *Id.* at 144. Shortly thereafter, Porter was permitted to leave the residence after promising not to tell anyone about Dyer’s torture and killing.

- [19] Lopez returned to Saunders's house later that evening. Angulo told Lopez that he needed his help, that "it's done, you know. I took care of it . . . . I took care of Kim. She's done." *Transcript Vol. IV* at 244. Lopez was permitted to leave after promising to help dispose of Dyer's body.
- [20] After Lopez left, Owen shoved Dyer's body headfirst into a trash bin. As Dyer's body did not quite fit, Lowry was directed to sit on top of the lid while the bin was wrapped in duct tape to keep it closed.
- [21] Owen then contacted a friend of his—Jennifer Kufeldt—who arrived at the residence shortly thereafter. Owen stated they wanted some bleach to clean up the basement and they needed Kufeldt's car to dispose of the bin containing Dyer's body. Angulo mentioned to Kufeldt that he had injured his foot while he was kicking Dyer in the head the previous night. Angulo, Owen, and Kufeldt left to dispose of Dyer's body, while Lowry stayed and cleaned the residence. Someone ripped up the carpet and burned it in a backyard firepit, while Lowry painted over the blood-splattered walls.
- [22] As Angulo, Owen, and Kufeldt were driving with Dyer's body, Angulo contacted Jerikay Delater-Foster, who was a surrogate mother to him, stating that he needed her help. All three met with Delater-Foster at an abandoned house in Michigan where she was living, and Angulo told her that he "f\*\*\*\*d up." *Transcript Vol. IX* at 64-66. Angulo stated that he had killed "some girl," a "nobody" and a "snitch," and that her body was in the trunk. *Id.* at 66-67. Delater-Foster told Angulo that he was a "dumbass" because the "snitch list"

that was found in Dyer's belongings was the same list that had been distributed two weeks earlier. *Id.* at 67-68. Delater-Foster explained that Dyer must not have talked because she did not know anything, and that she had died for "no reason." *Id.* at 69-70. In response, Angulo said, "she won't be missed." *Id.* Angulo asked Delater-Foster for help in hiding the body, but she declined and told him to leave. Angulo, Owen, and Kufeldt then drove Dyer's body to a remote location where they covered the container with a camouflage jumpsuit.

[23] When Lopez returned to Saunders's residence several days later, he noticed that the carpet had been stripped out, and the walls had been painted. Thereafter, on November 6, 2019, Lopez, who was incarcerated in the Elkhart County Jail on an unrelated matter, told police that Dyer had been murdered at Saunders's house. Lopez was again interviewed, and he supplied detectives with further details about the murder. Police officers also interviewed Kufeldt, who informed them that she, Owen, and Angulo had transported Dyer's body to a remote area east of Constantine, Michigan, which was approximately one hour from Elkhart.

[24] When the officers went to the location that Kufeldt had described, they found Dyer's body. An autopsy revealed that Dyer had suffered as many as eighty-three distinct injuries, including bruises and lacerations to her head, neck, back, arms, and legs. A cut on Dyer's neck had severed her jugular vein, and there was a deep cut on her foot near the base of her toes. A muscle across the front of Dyer's neck had been completely sliced through, and there were burns to her shoulder, arms, and feet. Dyer's skin was blackened around a burn on her



shoulder, and one of the burns indicated that she had been “branded.”

*Transcript Vol. VI* at 17, 25-26, 55-56. The pathologist concluded that Dyer had died from blunt force trauma, the sharp-force injury to her neck, and asphyxia.

[25] As the police investigation continued, Angulo was arrested on December 18, 2019, and charged with Dyer’s murder, Level 2 felony robbery resulting in serious bodily injury to Porter, and two counts of Level 3 felony criminal confinement that named Porter and Dyer as the victims. The State also provided notice of its intent to seek a sentence of life imprisonment without parole.

[26] On May 1, 2020, the State filed a motion for joinder of defendants, seeking to join Angulo’s case with that of Owen, who had been arrested and charged with the same offenses and against the same victims, as well as with Murzynski, who was also charged with robbery resulting in serious bodily injury and two counts of criminal confinement against the same victims as Angulo and Owen.<sup>1</sup> The trial court conducted a hearing on August 6, 2020, and subsequently granted the State’s motion.

[27] The State also filed a pretrial motion in limine on April 13, 2021 that sought to limit Angulo’s cross-examination of Porter at trial. More particularly, the State asserted that based upon questions Angulo’s counsel had asked Porter during a deposition about a missing-person case involving someone named Brittany

---

<sup>1</sup> Murzynski subsequently pled guilty to the charged offenses.

Shank, it anticipated that Angulo would seek to cross-examine Porter about that topic. The State alleged that Porter’s testimony about Shank’s disappearance would be irrelevant and inadmissible and that such evidence would only serve “to inflame the passions of the jury and leave a misimpression with the jury.” *Appellant’s Appendix Vol. II* at 125, 126.

[28] The trial court held a hearing on the State’s motion in limine after Angulo’s trial commenced on April 20, 2021. The trial court granted the State’s motion, noting that it would be willing to reconsider the preliminary ruling if additional evidence was offered establishing a connection with Shank’s disappearance to Angulo’s case. Angulo, however, made no attempt to cross-examine Porter about Shank, nor did he make an offer of proof as to the particular evidence that he wished to present on this issue.

[29] During trial, Angulo sought to admit testimony from Brandan Williamson, who purportedly told Elkhart County Commander Mark Daggy that he overheard Porter make incriminating statements about strangling and raping Dyer. Williamson refused to testify even after being warned that he could be held in contempt if he did not.

[30] Angulo’s offer of proof indicated that Williamson overheard Porter say that he had strangled Dyer. Angulo also pointed out that Porter stated that he was under duress when the incident occurred but at other times, Porter apparently stated that he was not under duress. Angulo asserted that he had a right to introduce this evidence to impeach Porter, who had earlier in the trial testified

that he had never made those statements. Because Williamson refused to testify, Angulo sought to admit Commander Daggy's description of what Williamson said that he overheard Porter say. The trial court determined that Angulo could not question Commander Daggy about Porter's statements to Williamson because it would "allow double hearsay to come in." *Transcript Vol. X* at 217.

[31] On April 29, 2021, the jury found Angulo guilty as charged. At the conclusion of the second phase of the trial—the life without parole sentencing enhancement—the jury determined that Angulo committed murder by aiding, inducing, or causing the intentional killing of Dyer while committing or attempting to commit criminal confinement and while committing or attempting to commit criminal organization activity, and that he burned, mutilated, or tortured Dyer. The jury also found that the charged aggravating circumstances existed beyond a reasonable doubt and that the aggravating circumstances outweighed any mitigating circumstances. The jury recommended that Angulo receive a term-of-years sentence and that Owen receive life imprisonment without parole.

[32] At the sentencing hearing on June 24, 2021, the trial court acknowledged the existence of several mitigating factors, including Angulo's age of nineteen at the time of the offense, the abuse that Angulo had suffered from his father, and Angulo's history of mental health issues. The trial court, however, found numerous aggravating circumstances, including Angulo's criminal history, failure to take advantage of prior rehabilitative efforts, association with known

gang members, persistent substance abuse and his active role in the commission of the crimes, undignified disposal of Dyer's body and his efforts to conceal the crimes, use of a knife to scar Porter, branding and waterboarding Dyer, use of a broken glass bottle to slice Dyer's throat after attempting to strangle her with a garden hose, efforts to humiliate Porter and Dyer, threats to compel Porter to aid him in strangling Dyer, and failure to stop the commission of the offenses.

[33] After concluding that the aggravating factors outweighed the mitigating circumstances, the trial court sentenced Angulo to 65 years for murder, 30 years for robbery resulting in serious bodily injury, and to 16 years on each count of criminal confinement. Angulo was ordered to serve the sentences consecutively, for an aggregate term of 127 years.

[34] Angulo now appeals.

## **Discussion and Decision**

### **I. Joinder**

[35] Angulo contends that the trial court abused its discretion in granting the State's motion for joinder. Specifically, Angulo argues that joining his trial with Owen's precluded him from being able to call Owen as a witness, thus denying him his "Sixth Amendment right to subpoena and compel testimony."

*Appellant's Brief* at 21.

[36] Trial courts generally have discretion to decide whether to grant motions for joint or separate trials. *Lampkins v. State*, 682 N.E.2d 1268, 1272 (Ind. 1997);

*but see* Ind. Code section 35-34-1-11(b) (providing that severance is required when it is necessary to protect a speedy-trial right or when it is appropriate to promote a fair determination of guilt or innocence, and where one codefendant has made an out-of-court incriminating statement referencing the codefendant, the prosecutor must either redact the reference to the codefendant, not admit that evidence, or agree to separate trials).

[37] I.C. § 35-34-1-9(b)(1) provides that two or more defendants may be joined in the same indictment or information “when each defendant is charged with each offense included.” Here, Angulo and Owen were each charged with murder, robbery, and two counts of criminal confinement in identical informations.

[38] Although Angulo apparently assumes that he could call Owen as a witness if Owen was not a codefendant at his trial, Owen retained a right against self-incrimination, regardless of whether he was a codefendant at Angulo’s trial. *See, e.g., Bleeke v. Lemmon*, 6 N.E.3d 907, 925 (Ind. 2014) (holding that the right of self-incrimination not only permits a person to refuse to testify against himself at a criminal trial ... but also “privileges him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings”) (quoting *Minnesota v. Murphy*, 465 U.S. 420, 426 (1984)).

[39] Angulo has not established that Owen would have been willing to waive his right against self-incrimination had he been tried separately from Angulo. In fact, Owen chose not to testify in his own defense, and there is no reason to

believe that he would have been any more willing to risk incriminating himself had he been tried separately. Therefore, Angulo has failed to show that joining Owen as a codefendant at trial prevented him from being able to call Owen as a witness. Rather, it was Owen's invocation of his right against self-incrimination that prevented it, and that right existed without regard to whether he and Angulo were tried jointly or separately. *See Bleeke*, 6 N.E.3d at 925.

[40] Further, Angulo's reliance on *Diggs v. State*, 531 N.E.2d 461 (Ind. 1988) is misplaced. In *Diggs*, the prosecutor told a potential defense witness that if he testified at trial consistent with what he had testified to in a deposition, criminal charges would be filed against him. *Id.* at 464. The *Diggs* Court observed that a "prosecutor's warning of criminal charges during a personal interview with a witness improperly denied the defendant the use of that witness's testimony regardless of the prosecutor's good intentions." *Id.*

[41] Those circumstances did not exist here, as Owen did not invoke his right not to testify on the grounds that the prosecutor had intimidated him. Rather, he invoked right against self-incrimination because he had been charged with being an accomplice to Angulo's crimes. For all these reasons, we conclude that the trial court properly exercised its discretion in granting the State's motion for joinder.

## II. Denial of Right to Cross-Examine

[42] Angulo claims that his convictions must be reversed because the trial court improperly restricted his right to cross-examine Porter at trial when it granted

the State's motion in limine. Angulo further maintains that his right to present a defense was violated because the trial court erred in denying his request to question Commander Daggy about statements that Porter allegedly made to Williamson.

### **A. Standard of Review**

[43] A trial court has inherent discretionary power regarding the admission of evidence, and we will review its evidentiary decisions only for an abuse of discretion. *Vasquez v. State*, 868 N.E.2d 473, 476 (Ind. 2007). An abuse of discretion occurs if a trial court's decision to admit or exclude evidence is clearly against the logic of the facts and circumstances before it. *Turner v. State*, 953 N.E.2d 1039, 1059 (Ind. 2011). To reverse a trial court's decision to exclude evidence, there must be error that affects the defendant's substantial rights. *Vasquez*, 868 N.E.2d at 473.

### **B. Porter Cross-Examination and the Motion In Limine**

[44] Motions in limine are protective-order motions designed to guard against the future admission or exclusion of evidence. *Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010). Motions in limine, however, do not preserve issues for appellate review. *K.C. v. State*, 84 N.E.3d 646, 649 (Ind. Ct. App. 2017). To preserve an issue for appeal with respect to the exclusion of evidence, a defendant must make an offer of proof at trial regarding the excluded evidence. *Harman v. State*, 4 N.E.3d 209, 215 (Ind. Ct. App. 2014), *trans. denied*. That is, a defendant's offer of proof must include what the substance of the evidence would be, as well

as an explanation for its admissibility. *Id.* Failure to make an offer of proof results in waiver of the claim. *King v. State*, 799 N.E.2d 42, 48 (Ind. Ct. App. 2003), *trans. denied*.

[45] In this case, the trial court granted the State’s motion in limine that prevented Angulo from cross-examining Porter about Shank’s disappearance. In its ruling, the trial court explained to Angulo’s counsel that its decision to prevent such cross-examination was preliminary and that it would be willing to reconsider its ruling based on the evidence admitted at trial.

[46] During the hearing on the State’s motion in limine, Angulo described to the trial court why he wanted to question Porter. Angulo, however, did not make an offer of proof as to what Porter’s testimony would have been. Angulo only claimed that there was a case involving Shank’s disappearance, that the police had found some duct tape during a search for her, and that Porter allegedly told two individuals where the body was buried.

[47] Angulo did not establish how any of Porter’s answers on cross-examination regarding Shank’s disappearance would have been relevant to his case. Rather, Angulo’s counsel stated that he wanted to “delve into that subject matter.” *Transcript Vol. IV* at 61-65. When the time came at trial for Angulo to cross-examine Porter, he did not attempt to introduce any evidence about Shank’s alleged disappearance. As Angulo failed to do so, he has waived his argument that the trial court improperly restricted his right to cross examine Porter.



[48] Waiver notwithstanding, we note that Indiana Evid. Rule 401 provides that “evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Here, the evidence showed only that Shank might have gone missing under suspicious circumstances and that Porter had been questioned by the police about that incident. Also, even though detectives interviewed Porter about Shank’s disappearance, Porter was never charged with any offense relating to that incident. And there was no showing of any similarities between Shank’s disappearance and Dyer’s death. Simply put, it was only speculation that Porter might have been involved in an incident that might—or might not have—resembled Dyer’s death. As a result, the evidence was not relevant and was inadmissible. For these reasons, Angulo’s claim that he was unfairly deprived of his right to cross-examine Porter fails.

### **B. Commander Daggy’s testimony**

[49] Angulo also claims that the trial court improperly prevented him from questioning Commander Daggy about Williamson’s contention that he heard Porter confess to killing Dyer. Because Williamson refused to testify, Angulo sought to call and question Commander Daggy about his interview with Williamson. Williamson had purportedly repeated statements to Commander Daggy that Porter had made to Williamson about Porter’s involvement in Dyer’s murder. The trial court denied Angulo’s request to call and question Commander Daggy about his conversation with Williamson, determining that it was hearsay within hearsay.

[50] Angulo asserted at trial and now on appeal that this evidence was not hearsay because it was offered to impeach Porter and not to prove the truth of the matter. More specifically, Angulo claims that “the fact that [Porter] made such statements to other individuals, for whatever reason, impacts his character and credibility as a witness.” *Appellant’s Brief* at 26-27. Even assuming solely for the sake of argument that the evidence was not inadmissible hearsay, we observe that Indiana Evidence Rule 613(B)<sup>2</sup> allows a defendant to impeach a witness about prior inconsistent statements using extrinsic evidence. But the witness must be given an opportunity to explain or deny the statement, and the State must be given an opportunity to examine the witness about it.

[51] Here, Porter testified at trial and admitted to strangling Dyer with a garden hose by holding one end of the hose as an anchor while Angulo tightened it. Angulo cross-examined Porter, but he did not lay a proper foundation to impeach Porter with extrinsic evidence. In other words, Angulo did not “warn” Porter about the alleged specific statements that he made to Williamson and provide him with the opportunity to explain or deny those specific statements. And our Supreme Court has determined that a “proper foundation must be laid to warn the witness and enable him to deny or explain the prior statement.” *See Hilton v. State*, 648 N.E.2d 361, 362 (Ind. 1995), *disapproved on other grounds by State v. Wilson*, 836 N.E.2d 407, 409-10 (Ind. 2005). That

---

<sup>2</sup> This rule provides in part that “Extrinsic evidence of a witness’s prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires.”

warning must adequately call the specific statement to the witness's attention to enable him to form a sufficient recollection. *Id.*

[52] Although Angulo asked Porter if he had told anyone that he had strangled Dyer, such a general question did not allow Porter to form a sufficient recollection about a specific conversation, and it did not place Porter on notice that he was being asked to explain or deny the particular statements that he allegedly made to Williamson. Therefore, Angulo did not properly avail himself of the use of Evid. R. 613(B) that may have permitted such questioning.

[53] We also note that even if Angulo had established a proper foundation for the admission of Porter's statements in accordance with Evid. R. 613(B), the trial court nonetheless could have properly excluded the statements. Trial courts have the discretion to decide whether to admit or exclude extrinsic impeachment evidence under Evid. R. 613(B), and they are permitted to consider factors including "the availability of the witness, the potential prejudice that may arise from recalling a witness only for impeachment purposes, the significance afforded to the credibility of the witness who is being impeached, and any other factors that are relevant to the interests of justice." *Hall v. State*, 177 N.E.3d 1183, 1195-96 (Ind. 2021).

[54] The evidence showed that Williamson was biased against Porter and sought revenge. For instance, Williamson stated in his interview with Commander Daggy that he "really [did not] like" Porter because he was "running around with [his] bitch. . . ." *State's Exhibit 197*. Williamson also stated that Porter had

assaulted him multiple times, stolen from him, “busted” his eardrum, and made his life a “living hell.” *Id.* Williamson also told Commander Daggy that he would “do whatever [he] gotta do to put this guy away” because Porter had “s\*\*t in [his] cereal one too many times.” *Id.* Under these circumstances, there is no reason to find that Williamson’s assertions about Porter’s alleged confession to Dyer’s murder, were reliable.

[55] Finally, we note that even if Angulo had established a right to present Commander Daggy’s testimony on this issue, that evidence would not have exonerated Angulo. It was Angulo’s confession to others, along with Lowry’s and Porter’s testimony at trial about seeing Angulo torture Dyer and watching him slice Dyer’s neck with a broken bottle, that was the critical evidence connecting Angulo to the murder. Additionally, Porter admitted at trial that he held one end of the hose while Angulo wrapped the other end around Dyer’s neck and strangled her with it. Delater-Foster also testified that Angulo admitted to her that he had killed Dyer. In light of this evidence, any error that might have occurred in excluding Commander Daggy’s testimony was harmless. *See, e.g., Pierce v. State*, 29 N.E.3d 1258, 1268 (Ind. 2015) (holding that where wrongfully excluded evidence is merely cumulative of other properly admitted evidence, its exclusion is harmless error); *see also Vasquez*, 868 N.E.2d at 476 (recognizing that the trial court’s decision to exclude evidence will be reversed only when the error affects the defendant’s substantial rights).

[56] For all of the above reasons, we reject Angulo’s contention that the trial court’s exclusion of Commander Daggy’s testimony unfairly impinged on his right to present a “meaningful defense.” *See Appellant’s Brief* at 28.

### III. Sufficiency of the Evidence

[57] Angulo claims that the evidence was insufficient to support his conviction for robbery resulting in serious bodily injury. Specifically, Angulo argues that the State failed to prove beyond a reasonable doubt that he had taken any property from Porter as the State alleged in the charging information.

[58] In sufficiency of the evidence challenges, we will not reweigh the evidence or assess the credibility of the witnesses. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). This court considers only the evidence most favorable to the verdict and the reasonable inferences that can be drawn from the evidence. *Fuentes v. State*, 10 N.E.3d 68, 75 (Ind. Ct. App. 2014), *trans. denied*. We will also consider conflicting evidence in the light most favorable to the verdict. *Oster v. State*, 992 N.E.2d 871, 875 (Ind. Ct. App. 2013), *trans. denied*. A defendant’s conviction will be affirmed unless no reasonable fact finder could find the elements of the crime proven beyond a reasonable doubt. *Lock v. State*, 971 N.E.2d 71, 74 (Ind. 2012).

[59] To prove that Angulo was guilty of robbery resulting in serious bodily injury, the State was required to show that Angulo knowingly or intentionally took property from Porter by using or threatening the use of force on any person, causing serious bodily injury to Porter. *See* Ind. Code § 35-42-5-1(a)(1). Even if

a person did not commit every element of that offense himself, he nevertheless committed the crime if he knowingly or intentionally aided, induced, or caused another person to commit that offense. Ind. Code § 35-41-2-4; *see also Wise v. State*, 719 N.E.2d 1192, 1198 (Ind. 1999) (observing that there is no distinction between the responsibility of a principal and an accomplice). To be considered an accomplice, a participant in a criminal offense must “knowingly or intentionally associate himself with the criminal venture, participate in it, and try to make it succeed.” *Anthony v. State*, 56 N.E.3d 705, 714 (Ind. Ct. App. 2016), *trans. denied*.

[60] Notwithstanding Angulo’s claim that the State failed to show that he took property from Porter, the evidence at trial showed that Angulo, Owen, and Murzynski confronted Porter in Saunders’s basement, while Owen was carrying a five-inch knife. Owen noticed Porter’s jewelry and said, “Oh, I gotta get paid” and began punching Porter. *Transcript Vol. VI* at 112-17. Porter testified that he feared for his safety and handed over his grandfather’s Freemason ring and all the other jewelry he had acquired from his marijuana sales. The evidence further established that Angulo told Owen to bring a weapon to Saunders’s residence because he had planned a robbery.

[61] Elkhart County Lieutenant Michael Carich testified that he interviewed Angulo on December 19, 2019. At that time, Angulo admitted that he had “beat[en] up Robert Porter and . . . took Robert Porter’s jewelry from him.” *Transcript Vol. IX* at 107-08, 111-13. This evidence demonstrated that Angulo used force when he took the jewelry from Porter. *See Willoughby v. State*, 552 N.E.2d 462, 468

(Ind. 1990) (holding that once properly admitted, a confession is direct evidence of guilt of the criminal activity committed).

[62] In sum, the State presented probative evidence at trial from which the jury could find that Angulo took Porter's jewelry and committed robbery resulting in serious bodily injury.

#### IV. Sentencing

[63] Angulo contends that his sentence is inappropriate. In accordance with Ind. Appellate Rule 7(B), we may revise a sentence authorized by statute if, after due consideration of the trial court's decision, we find the sentence inappropriate in light of the nature of the offenses and the character of the offender. Indiana's flexible sentencing scheme allows trial courts to tailor a sentence to the circumstances presented, and deference to the trial court "prevail[s] 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). Our role is to "leaven the outliers," which means we exercise our authority in "exceptional cases." *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019). Angulo bears the burden of persuading us that his sentence is inappropriate. *See Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). The question is not whether another sentence is more appropriate, but whether the sentence

imposed is inappropriate. *Fonner v. State*, 876 N.E.2d 340, 344 (Ind. Ct. App. 2007).

[64] The advisory sentence is the starting point to determine the appropriateness of a sentence. *Baumholser v. State*, 62 N.E.3d 411, 418 (Ind. Ct. App. 2016), *trans. denied*. Angulo was convicted of murder, and Ind. Code § 35-50-2-3(a) provides that an individual who commits that offense may be sentenced to a fixed term of between forty-five and sixty-five years, with an advisory sentence of fifty-five years. Under I.C. § 35-50-2-4.5, an individual who commits robbery resulting in serious bodily injury—a Level 2 felony—may be sentenced to a fixed term between ten and thirty years, with an advisory sentence of seventeen and one-half years. As for the criminal confinement offenses, both Level 3 felonies, the sentencing range is between three years and sixteen years, with an advisory sentence of nine years. I.C. § 35-50-2-5(b). The trial court imposed the maximum allowable sentence on each conviction and ordered Angulo to serve those sentences consecutively for an aggregate term of 127 years. Angulo seeks a reduced sentence, urging that the maximum sentence was inappropriate.

[65] When reviewing the nature of the offense, we look to the details and circumstances of the offense and the defendant’s participation therein. *Madden v. State*, 162 N.E.3d 549, 564 (Ind. Ct. App. 2021). Here, Angulo asserts that the “role of substance abuse and the lack of premeditation distinguishes this from the worst of the worst, and . . . the imposition of the maximum sentence possible under the circumstances should be considered inappropriate.” *Appellant’s Brief* at 34.



[66] Notwithstanding Angulo's claim, the evidence demonstrates that the nature of Angulo's offenses is extraordinarily heinous. Angulo filled Dyer's last hours with terror, pain, and suffering. Falsely believing Dyer to be an informant, Angulo bound her, waterboarded her, hit and kicked her, burned her, shaved her head, forced her to remain in a closet to await her fate, wrapped duct tape around her mouth, poured bleach down her throat with a hose, choked her with a garden hose, and drove a broken glass bottle through her neck with force so great that it sliced through her jugular vein and snapped a muscle. Dyer drowned on her own blood and died. The pathologist found 83 separate injuries to Dyer's body.

[67] The evidence further showed that after Angulo tortured and killed Dyer, he attempted to conceal his crimes. Dyer's body was stuffed into a trash bin, which was wrapped in duct tape so it would tightly close. Angulo and several others drove to Michigan and found a remote location to dump Dyer's body where it was unlikely to be found.

[68] It was also established that Angulo plotted Porter's robbery and participated in torturing him. Angulo noticed Porter's jewelry and told Owen to bring a gun to Saunders's house because he wanted to rob him. Angulo kicked Porter all over his body after he was bound with zip ties, and he used a torch to remove those zip ties, which left Porter with burns and scarring. Angulo directed Porter to go upstairs where he was beaten in the face, forced to confess fault for "what was going on," crawl inside a dog cage, eat some dog food and a spider, and

extinguish a cigarette with his tongue. *Transcript Vol. VI* at 123-28; *Vol. VII* at 43-44.

[69] A defendant has the burden to show that his offenses lacked brutality, involved restraint, and showed regard, but Angulo's actions were nothing but brutal, and they lacked anything resembling regard or restraint. *Stephenson*, 29 N.E.3d at 122. In short, Angulo's claim that his sentence should be reduced when considering the nature of the offenses, avails him of nothing.

[70] When examining Angulo's character, we note that character is found in what we learn of the offender's life and conduct. *Perry v. State*, 78 N.E.3d 1, 13 (Ind. Ct. App. 2017). Many of the circumstances discussed above regarding the nature of Angulo's offenses also reveal his deplorable character. For instance, Angulo could have chosen to or attempted to release Dyer, but at every opportunity, he chose to commit further acts of terror and violence against her. When Angulo was waterboarding Dyer, he refilled the pitcher of water and continued with the torture.

[71] Angulo's dismissive attitude towards the value of Dyer's life and his reaction to learning that she had not been a snitch also speak poorly of his character. Angulo told Delater-Foster that Dyer was just "some girl" and "just a nobody." *Transcript Vol. IX* at 66-70. When Delater-Foster told Angulo that the list found in Dyer's belongings had been distributed weeks earlier, Angulo replied that Dyer "would not be missed." *Id.* at 67-70.

- [72] Although Angulo’s prior juvenile and criminal histories are limited to theft, traffic offenses, firearm possession, and drug-related offenses, he was on probation when he committed the offenses in this case, and he has violated probation several times in the past.
- [73] We reject Angulo’s attempt to minimize his offenses because he was in a “methamphetamine induced haze.” *Appellant’s Brief* at 34, 36. Indeed, a defendant is not excused from his actions when he is intoxicated voluntarily. I.C. § 35-41-3-5. And a defendant’s failure to address a known substance-abuse problem is not mitigating. *Hape v. State*, 903 N.E.2d 977, 1002 (Ind. Ct. App. 2009), *trans. denied*. The evidence showed that Angulo had used methamphetamine and marijuana daily for many years, and he has received court-ordered counseling as part of his juvenile probation. Angulo, however, did not take advantage of what he learned in counseling. The horrific nature of Angulo’s offenses in this case, as well as his dismissive attitude towards the value of Dyer’s life, speak for themselves, and Angulo’s known but unaddressed pattern of using methamphetamine does nothing to change that.
- [74] Finally, we reject Angulo’s reliance on cases that prohibit the death penalty and life sentences for juveniles. Angulo was nineteen years old when he committed the offenses, and the trial court accounted for his age in its sentencing statement. And while our Supreme Court and the United States Supreme Court have held that juveniles should be treated differently from adults, Angulo was *not* a juvenile when he committed the offenses. The cases on which

Angulo relies do not stand for the principle that young *adults* are to be afforded the protections given to juveniles.

[75] In conclusion, the evidence established that Angulo committed four extremely serious crimes against the victims. He tortured and killed Dyer. Angulo robbed Porter, inflicted pain on him, humiliated him, and terrorized him. Angulo has failed to establish that his sentence is inappropriate.

[76] Judgment affirmed.

Vaidik, J. and Crone, J., concur.