MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Patrick A. Gamble,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

June 26, 2023

Court of Appeals Case No. 22A-CR-3040

Appeal from the Lake Superior Court

The Honorable Gina L. Jones, Judge

Trial Court Cause No. 45G03-2111-F3-201

Memorandum Decision by Judge Mathias
Judges Vaidik and Pyle concur.

Mathias, Judge.

[1] Patrick Gamble pleaded guilty to domestic battery, a Level 5 felony. The trial court then sentenced Gamble to six years. Gamble now appeals, arguing that his six-year sentence was inappropriate in light of the nature of the offense and the character of the offender. Concluding that Gamble's sentence is not inappropriate, we affirm.

Facts and Procedural History

[2] Patrick Gamble and Lakethia Johnson were in a romantic relationship, cohabitating at Johnson's residence in Gary, Indiana. Johnson's 4-year-old son lived with them. Tr. Vol. 2, p. 51. On the night of October 30, 2021, they had been "drinking and smoking" in Johnson's room, and then they got into an argument. Tr. Vol. 2, p. 43. Subsequently, Gamble poured "lighter fluid on her body" and set it "on fire with a lighter." Tr. Vol. 2, p. 8. After Johnson put out the fire, Gamble warned Johnson not to tell anyone or he would show her and her son "what it's like to actually be set on fire." Tr. Vol. 2, p. 44. Afraid of leaving her son alone with Gamble, Johnson went to the hospital the next morning to receive treatments for her burns. Tr. Vol. 2, p. 51. She sustained third degree burns and permanent scaring on the right side of her body. Tr. Vol. 2, p. 21; Ex. Vol. 1, p. 10.

[3] At the sentencing hearing on November 30, 2022, the trial court found two aggravating factors: the defendant's criminal history, which included multiple misdemeanors and felony convictions, and the injury and permanent scarring suffered by Johnson. Tr. Vol. 2, p. 65. The court found that the nature and circumstances of the crime to be a "significant aggravating factor" and it was

"gruesome in the execution." *Id*. The trial court did not find any mitigating circumstances, including the guilty plea, which the court did not see as an indication of remorse. Therefore, the trial court concluded that the aggravating factors clearly outweighed the mitigating factors.

[4] The trial court sentenced Gamble to six years executed in the Department of Correction ("DOC"). Gamble now appeals. Additional facts will be provided as necessary.

Discussion and Decision

[5] Gamble argues that his sentence was inappropriate in light of the nature of the offense and his character. Under Indiana Appellate Rule 7(B), we may modify a sentence "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." Sentencing is "principally a discretionary function" of the trial court to which we afford great deference. *Cardwell v. State*, 895 N.E.2d 1219, 1222 (Ind. 2008). According to Rule 7(B), sentence modification is reserved for a "rare and exceptional case." *Livingston v. State*, 113 N.E.3d 611, 612 (Ind. 2018) (per curiam). Our role is to "leaven the outliers," not to achieve what may be perceived as the "correct" result. *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012).

[6] The defendant carries the burden of persuading us the sentence imposed by the trial court is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

We may consider any factors appearing in the record in making such a determination, *Reis v. State*, 88 N.E.3d 1099, 1102 (Ind. Ct. App. 2017).

[7] Here, Gamble pleaded guilty to domestic battery, classified as a Level 5 felony, and was sentenced to six years executed in the DOC, the maximum sentence for a Level 5 felony. Pursuant to Indiana Code section 35-50-2-6(b), a person who commits a Level 5 felony shall be imprisoned for a fixed term of between one and six years, with an advisory sentence of three years.

[8] Generally, maximum sentences are "most appropriate for the worst offenders." *Buchanan v. State*, 767 N.E.2d 967, 972 (Ind. 2002). This is not, however, a guideline to determine whether a worse offender could be imagined. *Id.* at 973. We refer to "the *class* of offenses and offenders that warrant the maximum punishment." *Id.* Such class "encompasses a considerable variety of offenses and offenders." *Id.*

[9] Here, Gamble purposely set Johnson on fire using lighter fluid while her 4-year-old son was at home. After Johnson extinguished the fire, Gamble threatened to show her and her son "what it's like to actually be set on fire" and warned her to keep quiet about this incident. Tr. Vol. 2, p. 44. Johnson sustained third degree burns and permanent scaring on the right side of her body. Thus, given the nature of the offense, we conclude that Gamble's sentence is not inappropriate.

[10] Gamble also argues that his sentence is inappropriate given his character. However, Gamble has not led a law-abiding life. He has three prior felony

convictions, including burglary and retail theft, and several misdemeanor convictions. He also has been given the benefits of probation four times and violated the terms of his probation every time.

Conclusion

[11] For all of these reasons, we hold that Gamble's six-year sentence is not inappropriate in light of the nature of the offense and the character of the offender. Accordingly, we affirm.

[12] Affirmed.

Vaidik, J., and Pyle, J., concur.