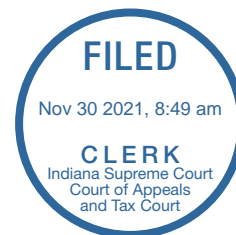


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT

Cara Schaefer Wieneke
Wieneke Law Office, LLC
Brooklyn, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Stanley Robinson, Sr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 30, 2021

Court of Appeals Case No.
21A-CR-1124

Appeal from the Vanderburgh
Circuit Court

The Honorable David D. Kiely,
Judge

The Honorable Kelli E. Fink,
Magistrate

Trial Court Cause No.
82C01-2008-F4-4674

May, Judge.

[1] Stanley Robinson, Sr., appeals his sentence following his conviction of Level 4 felony stalking.¹ Robinson argues that his eight-year sentence is inappropriate given the nature of his offense and his character. We affirm.

Facts and Procedural History

[2] Robinson and L.D. dated for several years, but the romantic relationship ended in the spring of 2020. L.D then moved into a new home on Jackson Street in Evansville, Indiana. Robinson tried to contact her after she moved, but L.D. blocked Robinson on social media and blocked his calls. Undeterred, Robinson went to L.D.'s house and knocked on the back door and the windows. He also peered inside L.D.'s back bedroom window.

[3] Robinson followed L.D. as she drove to work and confronted her, yelling: "You're a dead bitch, you going to lose your job, I'm going to fuck the car up, if I catch you with somebody else you and him both dead." (Tr. Vol. II at 103-04) (errors in original). He then attempted to contact L.D. by calling her place of employment. At one point in July 2020, Robinson drove his truck beside L.D.'s vehicle as she was on her way to work and veered into her lane. This almost caused L.D. to drive off the highway into a ditch. L.D. obtained a protective order against Robinson after this incident, but Robinson continued to harass

¹ Ind. Code § 35-45-10-5(c).

her. Robinson told L.D., “Bitch you got a restraining order, I don’t care[.]” (*Id.* at 108) (errors in original).

[4] On July 14, 2020, L.D. called 911 after she saw Robinson following her vehicle in his vehicle on her way to work. L.D. testified that while Robinson was following her:

He’s speeding. He’s hitting the breaks real hard. It’s more fast driving to keep up with me I guess because I hit it, I hit the pedal, so I’m trying to get away from him. So, it was a lot of speeding, swerving, he’d stop instantly to get on the side of me, he’ll just stop. If there’s traffic on the side he’d just stop and say whatever he had to say.

(*Id.* at 112.)

[5] On July 15, 2020, L.D.’s sister, Lat. D., drove by L.D.’s home to check on her. L.D. was at work at the time. As Lat. D. drove by the house, she saw Robinson breaking through the backdoor and physically entering the house. Lat. D. called 911. She also texted L.D., and L.D. left work early to return to her house. L.D.’s neighbor allowed a detective to review his surveillance system, which had recorded Robinson leaving L.D.’s house by climbing out of a window.

[6] On July 22, 2020, Robinson followed L.D. to work. Once L.D. backed into her parking space, Robinson drove in front of L.D.’s car so that she could not move forward. Robinson then exited his vehicle and started banging on the windows of L.D.’s car while yelling obscenities. When Robinson returned to his truck, L.D. left her car and scurried into her workplace.

[7] On July 23, 2020, L.D. and her best friend were sitting on the porch of L.D.'s house when Robinson drove up in his truck. He started "cussing and hollering" at L.D. and threatened to kill her. (*Id.* at 92.) L.D. and her friend went inside L.D.'s house, and Robinson drove off. However, when L.D. and her friend came back out onto the porch, Robinson drove back toward L.D.'s house and continued to yell at L.D. L.D. and Robinson began arguing, and at one point L.D. pulled out a firearm. Robinson left L.D.'s house before police arrived on the scene.

[8] On August 27, 2020, the State charged Robinson with stalking. The charge was enhanced to a Level 4 felony because of an alleged prior stalking conviction in which L.D. was the victim. The trial court held a bifurcated jury trial, which began on March 15, 2021. At the conclusion of the first phase of the jury trial, the jury returned a verdict of guilty of Level 6 felony stalking. Robinson then admitted a prior conviction of stalking in 2017, and the court entered judgment of conviction as Level 4 felony stalking.

[9] The trial court held Robinson's sentencing hearing on May 14, 2021. The court listed Robinson's decision to plead guilty to the enhancement as a mitigating circumstance. The trial court also noted as mitigating circumstances Robinson's acceptance of responsibility for his actions at the sentencing hearing and his history of mental health issues. However, the court found Robinson's lengthy criminal history to be an aggravating circumstance. The trial court then sentenced Robinson to an eight-year term in the Indiana Department of Correction.

Discussion and Decision

[10] Robinson argues his sentence is inappropriate pursuant to Indiana Appellate Rule 7(B). We evaluate inappropriate sentence claims using a well-settled standard of review:

Indiana Appellate Rule 7(B) gives us the authority to revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. Our review is deferential to the trial court's decision, and our goal is to determine whether the appellant's sentence is inappropriate, not whether some other sentence would be more appropriate. We consider not only the aggravators and mitigators found by the trial court, but also any other factors appearing in the record. The appellant bears the burden of demonstrating his sentence [is] inappropriate.

George v. State, 141 N.E.3d 68, 73-74 (Ind. Ct. App. 2020) (internal citations omitted), *trans. denied*.

[11] “When considering the nature of the offense, we first look to the advisory sentence for the crime.” *McHenry v. State*, 152 N.E.3d 41, 46 (Ind. Ct. App. 2020). Indiana Code section 35-50-2-5.5 states: “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.” Thus, the trial court imposed a sentence two-years longer than the advisory sentence but four years less than the maximum sentence. When a sentence deviates from the advisory sentence, “we consider whether there is anything more or less egregious about the offense as committed by the defendant that distinguishes it from the typical offense accounted for by our legislature when it set the advisory

sentence.” *Madden v. State*, 162 N.E.3d 549, 564 (Ind. Ct. App. 2021). The State charged Robinson with only one count of stalking, but the evidence adduced at trial showed a pattern of stalking and harassment. L.D. testified “every day there was something,” (Tr. Vol. II at 126), and Robinson went far beyond simply lodging threats. He tried to interfere with L.D.’s employment. He broke into her house while she was away. He drove recklessly while following L.D. to work, almost forcing L.D. off the highway and endangering other drivers on the road. Thus, a sentence above the advisory was not inappropriate in light of the nature of Robinson’s offense. *See Woodcock v. State*, 163 N.E.3d 863, 878 (Ind. Ct. App. 2021) (holding above-advisory sentence was not inappropriate given the nature of the defendant’s offense), *trans. denied*.

[12] When assessing a defendant’s character, one relevant fact we consider is the offender’s criminal history. *Johnson v. State*, 986 N.E.2d 852, 857 (Ind. Ct. App. 2013). “The significance of criminal history varies based on the gravity, nature, and number of prior offenses in relation to the current offense.” *Id.* The Pre-Sentence Investigation Report (“PSI”) indicated Robinson had at least eight prior felony convictions, including convictions of auto theft, armed robbery, and burglary. The PSI also detailed numerous arrests in Ohio and Illinois for domestic violence, battery, intimidation, and breaking and entering. This history is particularly troubling given it is the same type of criminal behavior Robinson committed in the instant case. We therefore cannot say the imposed sentence was inappropriate in light of his character. *See Prince v. State*, 148 N.E.3d 1171, 1175 (Ind. Ct. App. 2020) (holding defendant’s long criminal

history reflected poorly on her character and her sentence was not inappropriate).

Conclusion

[13] Robinson's sentence was not inappropriate given the egregious nature of his offense and his lengthy criminal history. Therefore, we affirm the trial court's judgment.

[14] Affirmed.

Vaidik, J., and Molter, J., concur.