

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Eric Grzegorski
Howard County Public Defender
Kokomo, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Daylon L. Welliver
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

William A. Mealer,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

February 23, 2023

Court of Appeals Case No.
22A-CR-350

Appeal from the Howard Circuit
Court

The Honorable Lynn Murray,
Judge

Trial Court Cause No.
34C01-2003-MR-717

Memorandum Decision by Judge Pyle

Judges Riley and Robb concur.

Pyle, Judge.

Statement of the Case

[1] William Mealer (“Mealer”) appeals his conviction by jury of murder, a felony,¹ and the sentence imposed thereon. He argues that: (1) there is insufficient evidence to support his conviction; (2) the trial court abused its discretion in sentencing him; and (3) his fifty-five-year advisory sentence is inappropriate. Concluding that there is sufficient evidence to support Mealer’s murder conviction, the trial court did not abuse its discretion in sentencing him, and his sentence is not inappropriate, we affirm the trial court’s judgment.

[2] We affirm.

Issues

1. Whether there is sufficient evidence to support Mealer’s murder conviction.
2. Whether the trial court abused its discretion in sentencing Mealer.
3. Whether Mealer’s sentence is inappropriate.

Facts

[3] The facts most favorable to the judgment reveal that on the morning of March 5, 2020, Mealer sent Dennis Vincent (“Vincent”) a social media message requesting the return of a shotgun that Mealer had lent to Vincent. Vincent responded that his brother had the shotgun. Vincent further explained that he

¹ IND. CODE § 35-42-1-1.

was extremely busy but that he would attempt to contact his brother later that afternoon. Vincent also told Mealer that his brother was angry that Mealer, whom the brother did not know, had attempted to contact the brother.

- [4] The following day, Mealer went to the boarding house where Vincent lived. Vincent was not home, but Mealer told one of Vincent's housemates that Vincent had his shotgun and that he wanted it back. The housemate told Mealer that Vincent should be home soon, and Mealer waited for Vincent. When Vincent returned to the boarding house, he asked Mealer to step outside.
- [5] Shortly thereafter, Mealer shot Vincent four times, twice in the back and twice in the back of the head, and fled from the scene. Kokomo Police Department officers arrived and found Vincent lying face down in the street. The officers quickly located surveillance cameras at businesses in the area and were able to follow Mealer's flight from the scene and return to his nearby home. Mealer entered his house and then left a few minutes later. Police officers obtained a warrant to search Mealer's home and discovered the gun which was used to shoot Vincent in the tank of Mealer's toilet.
- [6] On March 9, 2020, the State charged Mealer with murder. At the three-day trial in October 2021, the jury heard the evidence as set forth above. In addition, Dr. Thomas Sozio, ("Dr. Sozio") who had conducted Vincent's autopsy, testified that the cause of Vincent's death was gunshots to Vincent's head and back and that the manner of death was a homicide. According to Dr. Sozio, any one of the gunshots or a combination of them could have caused

Vincent's death. Dr. Sozio also testified that either of the gunshots to Vincent's head would have "cause[d] him to lose consciousness and really not have any purposeful movements." (Tr. Vol. 2 at 79). Dr. Sozio further testified that he had been unable to determine the range at which the shots had been fired because Vincent had been wearing multiple layers of clothing.

[7] In addition, Mealer testified that he had shot Vincent in self-defense. Mealer specifically testified that after Vincent had asked him to step outside, Vincent had told Mealer that the shotgun was not really at his brother's house. Rather, according to Mealer, Vincent had told him that the shotgun was just down the street and that they could go together and retrieve it.

[8] Mealer also testified that as the two men had been walking down the middle of the street, Vincent had put on a stocking cap and a pair of glasses, pulled a hoodie over his head, and, in a low voice, had told Mealer, "you are not going to like this[.]" (Tr. Vol. 2 at 177). Mealer further testified that he had seen Vincent start to pull a gun out of his jacket pocket and had begun struggling with Vincent over the weapon. Mealer described the struggle as follows:

We started fighting, turned around, I ripped the gun out of his hand and he tried to grab on to me again I fired a couple of times thinking that it would get him away from me because I was scared for my life. He's pulling a gun on me and I'm not expecting it and he didn't go down. He didn't. He tried to grab me again, so I fired again and he went down and I ran.

(Tr. Vol. 2 at 177-78).

- [9] During cross-examination, Mealer testified that Vincent had been on his left side and had pulled the gun out of his left jacket pocket with his left hand. When the State asked Mealer how he could have shot Vincent in the back if Vincent had held the gun in his left hand while walking on Mealer's left side, Mealer responded, "I couldn't say." (Tr. Vol. 2 at 187).
- [10] Also, during cross-examination, the State asked Mealer why Vincent would have pulled a gun on him. Mealer responded that Vincent had told him that the shotgun could not be returned to Mealer because it had been used to kill a child molester in a different state. Mealer further testified that he had told Vincent that if he did not return the shotgun, Mealer would report it to the police as stolen.
- [11] At the conclusion of the trial, the jury convicted Mealer of murder. During the December 2021 sentencing hearing, Mealer's pre-sentence investigation report ("the PSI") revealed that he had had two contacts with the juvenile justice system, neither of which had resulted in a juvenile delinquency adjudication. In addition, Mealer had no adult criminal history. The PSI further revealed that while incarcerated at the Howard County Jail, Mealer had been written up for multiple violations, including the destruction and misuse of county property. The PSI also revealed that Mealer had reported that he had previously been diagnosed with PTSD, ADHD, ADD, and severe anxiety. However, Mealer did not remember when he had been diagnosed with these conditions or who had diagnosed him. Also, at the sentencing hearing, Mealer's counsel asked the

trial court to “give [Mealer] the minimum [and] suspend some of that sentence[.]” (Tr. Vol. 2 at 221).

- [12] In January 2021, the trial court issued a written sentencing order that provides, in relevant part, as follows:

The Court finds as an aggravating circumstance the nature and circumstances of the offense in that after shooting Dennis Vincent multiple times, [Mealer] left the victim lying in the street and ran from the scene to his home, where he hid the weapon and tried to evade authorities. Since he has been incarcerated in the Howard County jail in this cause, [Mealer] has been the subject for multiple incidents of violating facility rules, including misuse and destruction of county property.

The Court finds as a mitigating factor that [Mealer] has no prior criminal convictions, and has an insignificant history with the juvenile justice system prior to his arrest for this crime. The defendant claims that he suffers from a number of mental health issues including PTSD, but had sought no treatment[.]

The court finds the imposition of [a fifty-five (55) year] advisory sentence is appropriate to rehabilitate [Mealer] and for the protection of society.

(App. Vol. 2 at 130-31).

- [13] Mealer now appeals the murder conviction and the sentence imposed thereon.

Decision

- [14] Mealer argues that: (1) there is insufficient evidence to support his murder conviction; (2) the trial court abused its discretion in sentencing him; and (3) his advisory sentence is inappropriate. We address each of his contentions in turn.

1. Sufficiency of the Evidence

- [15] Mealer first argues that there is insufficient evidence to support his murder conviction. Specifically, he contends that the State failed to rebut his claim that he had shot and killed Vincent in self-defense. We disagree.
- [16] The standard of review for a challenge to the sufficiency of the evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim. *Cole v. State*, 28 N.E.3d 1126, 1136-37 (Ind. Ct. App. 2015). We neither reweigh the evidence nor judge the credibility of witnesses. *Id.* at 1137. Additionally, if there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the verdict will not be disturbed. *Id.*
- [17] A valid claim of self-defense is legal justification for an otherwise criminal act. *Id.* “A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force.” IND. CODE § 35-41-3-2(c). In addition, a person is justified in using deadly force and does not have a duty to retreat “if the person reasonably believes that that force is necessary to prevent serious bodily injury to the person[.]” I.C. § 35-41-3-2(c). In order to prevail on a claim of self-defense, a defendant must show that: (1) he was in a place where he had a right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or great bodily harm. *Cole*, 28 N.E.3d at 1137.
- [18] When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements. *Id.* The

State may meet this burden by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief. *Id.* Whether the State has met its burden is a question of fact for the factfinder. *Id.* Further, the factfinder “is not precluded from finding that a defendant used unreasonable force simply because the victim was the initial aggressor.” *Birdsong v. State*, 685 N.E.2d 42, 45 (Ind. 1997).

[19] Here, Mealer argues that the evidence was insufficient to rebut his claim of self-defense. Specifically, Mealer contends that he had a right to be on a city street, he acted without fault, and he had a reasonable fear of great bodily harm when he saw Vincent pull a gun out of his jacket pocket.

[20] However, our review of the evidence reveals that, Mealer shot Vincent four times, twice in the back and twice in the back of the head. We have previously stated that the firing of multiple shots undercuts a claim of self-defense. *See Hood v. State*, 877 N.E.2d 492, 497 (Ind. Ct. App. 2007), *trans. denied*. Therefore, even if Mealer had been justified in using some level of force, the jury could have reasonably determined that he used unreasonable force when he shot Vincent four times in the back. *See Orozco v. State*, 146 N.E.3d 1038, 1041 (Ind. Ct. App. 2020) (explaining that even if Orozco had been justified in using some level of force, the jury could have reasonably determined that he used excessive force when he shot the victim five times in the back and once in the side), *trans. denied*.

- [21] We further note that Mealer’s conduct after shooting Vincent was not consistent with that of an innocent man. Specifically, Mealer did not call for medical assistance for Vincent or contact law enforcement. Instead, Mealer fled from the scene, returned to his home, hid the gun in the tank of his toilet, and left his house. *See Seeley v. State*, 547 N.E.2d 1089, 1092 (Ind. 1989) (“A jury may consider evidence of flight of the accused immediately after the commission of a crime as evidence of his consciousness of guilt.”).
- [22] Lastly, we note that the only evidence that Mealer’s reaction was reasonable was contained in Mealer’s testimony. The jury, however, had no obligation to credit this evidence and did not. *See McCullough v. State*, 985 N.E.2d 1135, 1139 (Ind. Ct. App. 2013), *trans. denied*. Ultimately, Mealer’s argument is nothing more than an invitation to reweigh the evidence and judge the credibility of the witnesses, which we will not do. *See Cole*, 28 N.E.3d at 1137. There is sufficient evidence to rebut Mealer’s claim of self-defense, and, therefore, to support Mealer’s murder conviction.

2. Abuse of Discretion in Sentencing

- [23] Mealer also argues that the trial court abused its discretion in sentencing him because “[t]here is no discussion in the sentencing statement about why no portion of the sentence was suspended.”² (Mealer’s Br. 11). Sentencing

² The version of the suspension of a sentence for a felony statute in effect at the time Mealer committed the offense provides that “[t]he court may suspend only that part of a sentence for murder . . . that is in excess of

decisions rest within the sound discretion of the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh’g*, 875 N.E.2d 218 (Ind. 2007).

An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* at 491. A trial court may abuse its discretion in a number of ways, including: (1) failing to enter a sentencing statement at all; (2) entering a sentencing statement that includes aggravating and mitigating factors that are unsupported by the record; (3) entering a sentencing statement that omits reasons that are clearly supported by the record; or (4) entering a sentencing statement that includes reasons that are improper as a matter of law. *Id.* at 490-91.

[24] Here, however, because the trial court sentenced Mealer to an advisory sentence, the trial court was not required to enter a sentencing statement. *See Ward v. State*, 113 N.E.3d 1242, 1245 (Ind. Ct. App. 2018) (“[A] trial court is not required to enter a sentencing statement if it imposes the advisory sentence for a felony conviction.”); *See also* I.C. § 35-38-1-1.3 (“After a court has pronounced a sentence for a felony conviction, the court shall issue a statement of the court’s reasons for selecting the sentence that it imposes unless the court imposes the advisory sentence for the felony.”)

the minimum sentence for murder[.]” I.C. § 35-50-2-2.2(e). This provision is codified under subsection (c) of the current version of INDIANA CODE § 35-50-2-2.2.

[25] Though not required to do so, the trial court nevertheless entered a sentencing statement indicating that it had considered as aggravating factors the nature and circumstances of the offense and Mealer's multiple violations of rules at the Howard County Jail. In addition, the trial court considered as mitigating factors Mealer's lack of a criminal history and his mental health issues. Mealer does not challenge these aggravating and mitigating factors. He also does not allege that the trial court failed to consider mitigating factors that are clearly supported by the record or that the trial court's sentencing statement includes reasons that are improper as a matter of law.

[26] Rather, Mealer's sole contention is that the trial court abused its discretion because it failed to explain in the sentencing statement why it had failed to suspend a portion of his sentence. However, as the State points out, "[t]here is no requirement that a trial court sift and discuss all possible sentences and articulate why it did not select all the alternatives to the sentence it did choose." (State's Br. 20). The State is correct that "[s]uch a requirement would impose on trial courts an undue burden to create a lengthy and unnecessary record." (State's Br. 20). Here, the trial court entered a complete sentencing statement even though it was not required to do so. We find no abuse of the trial court's discretion.

3. Inappropriate Sentence

[27] Mealer also argues that his fifty-five (55) year advisory sentence is inappropriate. Indiana 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. The defendant bears the burden of persuading this Court that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). Whether we regard a sentence as inappropriate turns on the “culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case.” *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008).

[28] When determining whether a sentence is inappropriate, we acknowledge that the advisory sentence is the starting point the Legislature has selected as an appropriate sentence for the crime committed. *Childress*, 848 N.E.2d at 1081. Here, a jury convicted Mealer of murder. The sentencing range for murder is from forty-five (45) to sixty-five (65) years, with an advisory sentence of fifty-five (55) years. I.C. § 35-50-2-3. The trial court imposed the fifty-five (55) year advisory sentence for Mealer's murder conviction, which is less than the maximum sentence.

[29] We further note that an appellate court is “unlikely to consider an advisory sentence inappropriate.” *Shelby v. State*, 986 N.E.2d 345, 371 (Ind. Ct. App. 2013), *trans. denied*. “[A] defendant bears a particularly heavy burden in persuading us that his sentence is inappropriate when the trial court imposes the advisory sentence.” *Fernbach v. State*, 954 N.E.2d 1080, 1089 (Ind. Ct. App. 2011), *trans. denied*. Mealer has not met the heavy burden he faces in this appeal.

[30] Turning first to the nature of the offense, we note that Mealer shot Vincent four times, twice in the back and twice in the back of the head. Following the shooting, Mealer did not call for medical assistance for Vincent or contact law enforcement. Rather, Mealer fled from the scene and left Vincent lying in the street. Mealer then returned to his home, where he hid the gun in the tank of his toilet.

[31] Turning next to Mealer's character, we recognize that he has no prior criminal history. Indeed, the trial court considered Mealer's lack of a criminal history as a mitigating factor when imposing the advisory sentence in this case. We note, however, that while incarcerated at the Howard County Jail in this cause, Mealer was written up for multiple violations, including the destruction and misuse of county property. The commission of these multiple violations reflects poorly on Mealer's character.

[32] Based on the nature of the offense and his character, Mealer has failed to persuade this Court that his fifty-five (55) year advisory sentence is inappropriate. Therefore, we affirm the sentence imposed by the trial court.

[33] Affirmed.

Riley, J., and Robb, J., concur.