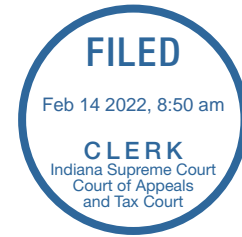


# MEMORANDUM DECISION

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

Kristin A. Mulholland  
LeBlanc & Mulholland, LLC  
Crown Point, Indiana

## ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana  
Alexandria N. Sons  
Deputy Attorney General  
Indianapolis, Indiana

---

# IN THE COURT OF APPEALS OF INDIANA

---

Lucky Ronald Tyler,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 14, 2022

Court of Appeals Cause No.  
21A-CR-2116

Appeal from the Lake Superior  
Court

The Honorable Salvador Vasquez,  
Judge

Trial Court Cause No. 45G01-1712-  
MR-10

**Riley, Judge.**

## STATEMENT OF THE CASE

- [1] Appellant-Defendant, Lucky Ronald Tyler (Tyler), appeals his sentence following his guilty plea to robbery resulting in serious bodily injury, a Level 2 felony, Ind. Code § 35-50-2-4.5, and sentence enhancement for use of a firearm, I.C. § 35-50-2-11(d).
- [2] We affirm.

## ISSUE

- [3] Tyler presents a single issue on appeal, which we restate as: Whether Tyler's sentence is inappropriate in light of the nature of the offense and his character.

## FACTS AND PROCEDURAL HISTORY

- [4] On October 31, 2017, Johnny Smith (Smith) and Khalil Carter (Carter) were roommates. On that day, Smith posted a picture on Facebook of himself holding \$4,000. Carter's mother had given Carter the money which would be used to buy a vehicle. After seeing the Facebook post, Paradise Haynes (Haynes) texted Tyler about robbing Smith of the money. Tyler and Justin Mitchell (Mitchell), who were driving a black Kia SUV that was reported stolen a few days earlier, picked up Paradise and all three went to Smith's and Carter's apartment at 512 Point Drive, Apartment No. 2, Hammond, Indiana, under the guise of meeting up to smoke marijuana, but instead they were planning to rob Smith of the money.

[5] Upon arriving, Tyler, Mitchell, and Haynes, saw a rifle sitting on the kitchen table. After pooling their money to purchase marijuana, everyone except Carter went to the store. When they returned, they saw that the rifle was no longer on the table. While Smith and Carter were seated in the kitchen, Haynes texted Tyler, and Mitchell, about how to get the robbery started. Shortly after that text, Tyler and Haynes asked to use the restroom. Based on Haynes' plan, Mitchell went to a bedroom and retrieved the assault rifle that had previously been on the table, returned to the living room, and announced the robbery. In addition, Tyler and Haynes pulled out their guns, and Tyler ordered Smith and Carter to get on the floor. Haynes handed Tyler her gun while she and Mitchell searched the apartment for the money. Tyler pointed both guns at Smith and Carter.

[6] Since Mitchell and Haynes could not locate the money during their search, they questioned Smith and Carter about its location. Carter stated that he had deposited the money in the bank, and Tyler countered by hitting him in the head with a gun. Tyler and Mitchell rummaged Carter's pockets and took a couple hundred dollars. Smith and Carter were then directed to one of the bedrooms and were questioned about the location of the money. Carter reiterated that the money was not in the apartment, and Tyler hit him again in the head. At that point, Carter grabbed Tyler and threw him toward Haynes. Haynes shot Smith in the stomach and Smith fell backward onto the bed. A struggle ensued and Smith heard more shots. The fight moved to the living room, but someone had dropped a gun on the bedroom floor, and Smith

grabbed it. As he lay on the ground and looked down the hallway, Smith saw Tyler and Haynes in the living room, and he began firing at them. Smith shot Haynes, and as Haynes yelled for help from Tyler, Smith shot Tyler too. Smith ran out of bullets, and Haynes and Smith held onto each other and limped out of the apartment. During the course of the robbery, Carter was shot and killed.

[7] The police arrived at the scene shortly thereafter. They found a credit card and discovered that the owner of the card had been a victim of a separate armed robbery in the morning hours of that same day. The police then discovered that the stolen debit card had been used at a gas station about fifteen minutes after the victim was robbed. When they pulled the surveillance footage from the gas station, they saw Tyler exit a black Kia SUV. Further investigation resulted in Tyler being linked to the offenses at Carter's and Smith's apartment.

[8] On June 27, 2019, the State filed an Information, charging Tyler with seven Counts: Murder, murder in the perpetration of a robbery, two Counts of Level 2 felony robbery resulting in serious bodily injury, Level 3 felony aggravated battery, and two Counts of Level 3 felony criminal confinement. The State also sought a sentencing enhancement for Tyler's use of a firearm in the commission of the crimes. On June 17, 2021, the parties entered into a plea agreement, in which Tyler agreed to plead guilty to one Count of Level 2 felony robbery resulting in serious bodily injury, and the firearm enhancement. The State agreed to dismiss the remaining Counts and to a ten-year maximum sentence on the firearm enhancement. The trial court accepted the plea agreement, and on August 26, 2021, the trial court sentenced Tyler to eighteen years and

enhanced the sentence by seven years for the use of a firearm, yielding an aggregate sentence of twenty-five years to be served in the Department of Correction.

[9] Tyler now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

[10] Tyler claims that his twenty-five-year sentence is inappropriate in light of the nature of the offense and his character. Indiana Appellate Rule 7(B) empowers us to independently review, and revise sentences authorized by statute if, after due consideration, we find the trial court's decision inappropriate in light of the nature of the offense and the character of the offender. *Reid v. State*, 876 N.E.2d 1114, 1116 (Ind. 2007). The "nature of the offense" compares the defendant's actions with the required showing to sustain a conviction under the charged offense, while the "character of the offender" permits a broader consideration of the defendant's character. *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008); *Douglas v. State*, 878 N.E.2d 873, 881 (Ind. Ct. App. 2007). An appellant bears the burden of showing that both prongs of the inquiry favor a revision of his sentence. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). Whether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other considerations that come to light in a given case. *Cardwell*, 895 N.E.2d at 1224. Our court focuses on "the length of the aggregate sentence and how it is to be served." *Id.*

[11] The advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed. *Abbott v. State*, 961 N.E.2d 1016, 1019 (Ind. 2012). Indiana Code section 35-50-2-4.5 provides that “[a] person who commits a Level 2 felony shall be imprisoned for a fixed term of between ten (10) and thirty (30) years, with the advisory sentence being seventeen and one-half (17 ½) years.” I.C. § 35-50-2-4.5. Indiana Code section 35-50-2-11(g) provides that if the court finds that “the person knowingly or intentionally used a firearm in the commission of the offense under subsection (d), the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.” For his Level 2 felony offense, Tyler received an above-advisory sentence of eighteen years. The trial court enhanced his sentence by seven years due to his use of a firearm, for an aggregate sentence of twenty-five years.

[12] We first examine the nature of Tyler’s offenses. Tyler argues that his sentence is inappropriate because he played a lesser role in the robbery and eventually tried to get out of the situation. The record shows that Tyler was a full participant in the robbery that led to Carter’s death. Following communication, and a plot to rob Smith of the \$4000, Tyler and Mitchell, driving a stolen Kia SUV, picked up Haynes and drove to Carter’s and Smith’s apartment. After Mitchell retrieved the rifle from the bedroom and announced the robbery, Tyler pointed his firearm and ordered Smith and Carter to lay on the ground. While Haynes searched for the money, she handed Tyler her firearm, and Tyler pointed both guns at Smith and Carter. When Carter said there was no money

in the apartment, at separate times, Tyler hit Carter twice in the head with a firearm. While Tyler did try to leave the apartment, it was only after Carter and Smith had been shot. Lastly, although Mitchell fired the bullet that killed Carter, Tyler possessed a firearm during the robbery, and he was an active participant during the robbery. The nature of Tyler's offenses does not render his sentence inappropriate.

[13] When considering the character of the offender, one relevant fact is the defendant's criminal history. *Rutherford v. State*, 866 N.E.2d 867, 874 (Ind. Ct. App. 2007). The significance of a criminal history in assessing a defendant's character varies based on the gravity, nature, and number of prior offenses in relation to the current offense. *Id.* While a record of arrests may not be used as evidence of criminal history, it can be "relevant to the trial court's assessment of the defendant's character in terms of the risk that he will commit another crime." *Cotto v. State*, 829 N.E.2d 520, 526 (Ind. 2005).

[14] Tyler's juvenile criminal history began in Illinois and involved adjudications for aggravated robbery with a firearm, unlawful use of a weapon, armed robbery with a firearm, aggravated unlawful use of a weapon, and aggravated vehicle hijacking with a firearm. Tyler's adult criminal history involves no other offenses other than the instant offenses.

[15] Tyler argues that his sentence is inappropriate because of his young age, which he contends should be considered as a significant mitigating factor. At the time Tyler committed the instant offense, he was only twenty-one years old. Despite

his young age, Tyler had already committed serious offenses as a juvenile which resulted in adjudications, and juvenile prison. The trial court remarked that Tyler had been given lighter juvenile sentences in the past in the hopes of rehabilitating him, but Tyler failed to learn any lessons from his contacts with the juvenile justice system. Moreover, a few hours before the robbery, Tyler was seen at a gas station exiting from a stolen black Kia SUV, and he had likely used a debit card that had been obtained from a separate armed robbery. Nothing we have learned from Tyler's character persuades us that the sentence imposed by the trial court should be reduced.

[16] After due consideration, we conclude that Tyler has not sustained his burden of establishing that his sentence is inappropriate in light of the nature of the offense and his character.

## **CONCLUSION**

[17] In sum, we conclude that Tyler's sentence is not inappropriate in light of the nature of the offense and his character.

[18] Affirmed.

[19] Robb, J. and Molter, J. concur