MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Gregory Vaughn, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 13, 2022

Court of Appeals Case No. 22A-CR-1148

Appeal from the Allen Superior Court

The Honorable Frances C. Gull, Judge

Trial Court Cause No. 02D05-2003-F3-28

Altice, Judge.

Case Summary

[1] Gregory Vaughn, Jr., appeals the aggregate thirteen-year sentence that was imposed following his convictions for robbery, a Level 3 felony, battery, a Level 5 felony, and invasion of privacy, a Class A misdemeanor, claiming that the sentence is inappropriate when considering the nature of the offenses and his character. Vaughn maintains that we should revise his sentence in accordance with Indiana Appellate Rule 7(B) because the circumstances of the offenses "did not involve abnormally severe allegations for the charges," and "his character is not so heinous as to justify an enhanced sentence above the advisory sentence." *Appellant's Brief* at 15.

[2] We affirm.

Facts and Procedural History

[3] Jenea Crawford, who had been in a romantic relationship with Vaughn, was living in a Fort Wayne apartment with her four children. At some point prior to March 2020, Crawford ended the relationship with Vaughn, who was the father of two of the children. Crawford also obtained a protective order against Vaughn that ordered him to "stay away from [her] family." *Transcript Vol. III* at 4.

[4] Late in the evening of March 2, 2020, after the children had fallen asleep, Jenea decided to take a shower. Jenea kept the bathroom door ajar so she could hear if the children needed anything. At some point, Jenea peeked out of the shower and noticed that the bathroom door was in a different position than where she had left it. Jenea initially thought that one of the children had been "sneaky" and had pushed the door open. *Id.* at 6-7. Jenea called out, asking if "anyone was there," but there was no response. *Id.* at 7.

[5] As Jenea walked out of the shower, she saw Vaughn in her apartment wearing the ski mask that he "wore all the time." *Id.* at 8. Vaughn was holding Jenea's phone and he ordered her to "unlock [it]" because he knew that she had been "cheating on [him]." *Id.* When Jenea refused to comply, Vaughn pulled a "big meat cleaver knife" from behind his back. *Id.* at 9-10. Vaughn again ordered Jenea to unlock the phone, ran toward her, and started swinging the knife "like he was gonna do something." *Id.* at 11. In response, Jenea yelled for the children to wake up and call the police.

[6] As a physical altercation ensued, Jenea raised her hand and Vaughn cut it with the knife. The two began to "tussle" and Vaughn stabbed Jenea's other hand. *Id.* at 12. Vaughn walked into the bathroom, removed Jenea's dentures from a cup, and told her that she was not "gonna be smiling" for anyone else. *Id.* at 14-15. Jenea's teenaged daughter, Z.R., woke up, walked toward the bathroom, and saw Jenea fighting with Vaughn. While armed with the knife, Vaughn ran toward the front of the apartment, grabbed the children's electronic devices and social security cards, Jenea's cell phone and wallet, and left the apartment.

[7] Z.R. found an old cell phone in a drawer, charged it, and called 911. In the meantime, Jenea ran to the kitchen sink and noticed that she felt "lightheaded and was losing a lot of blood." *Id.* at 27. Jenea's blood was splattered on the wall, refrigerator, stove, and a chair. When the police and ambulance arrived at Jenea's apartment, the emergency personnel observed that Jenea had cuts on both hands. Jenea was transported to the hospital for treatment.

[8] On March 5, 2020, the State charged Vaughn with Count I, Level 3 felony robbery, Count II, Level 5 felony battery, Count III, Class A misdemeanor invasion of privacy, and Count IV, interference with the reporting of a crime, a Class A misdemeanor.

[9] At the conclusion of Vaughn's jury trial on March 23, 2022, Vaughn was found guilty of robbery, battery, and invasion of privacy. At the April 22, 2022 sentencing hearing, the trial court reviewed the presentence investigation report (PSI) and noted that Vaughn had prior out-of-state convictions, including Level 4 felony possession of a controlled substance, Level 4 felony aggravated unlawful use of a weapon/vehicle, Level 2 felony manufacture/delivery of controlled substances, Class B misdemeanor domestic violence, and Class B misdemeanor criminal trespass. Vaughn also had pending charges for Level 1 felony attempted murder and Level 6 felony theft of a firearm that arose from an incident that occurred on March 30, 2020.

[10] The PSI indicated that Vaughn denied "robbing anybody" and claimed that he "was never [at Jenea's apartment]" when the incident occurred. *Appellant's*

Appendix Vol. II at 139. Vaughn reported that although he was diagnosed with schizophrenia and bipolar disorder years ago, he has refused to take prescribed medication for those disorders. Vaughn also admitted to consuming alcohol and marijuana every day "unless [he was] incarcerated." *Id.* at 141.

[11] Vaughn stated at the sentencing hearing that he did not commit the offenses and that "one of [Jenea's] current boyfriends did it." *Transcript Vol. III* at 156. Vaughn further commented that he "didn't care how many orders of protection y'all put on me, I'll always reach out to my children I'm gonna break it. . . . and I'm always [sic] violate it." *Id.* at 157-58. Vaughn also told the court that Jenea had "30, 40 different men" and he "shouldn't have to sit there and pay rent for [her] crib." *Id.* at 159.

[12] At the conclusion of the sentencing hearing, the trial court identified the following aggravating factors:

> You're a multi-state offender and failed efforts at rehabilitation covering a period of time from 2007 to 2022, where you have two misdemeanor convictions and three prior felony convictions with short, intermediate, and longer jail sentences, probation, community service [sic] you've been ordered to pay fines and costs, and [sic] been in the Department of Correction.

Id. at 160. The trial court found no mitigating circumstances and sentenced Vaughn to thirteen years of incarceration on Count I, five years on Count II, and to one year on Count III, and ordered those sentences to run concurrently for an aggregate sentence of thirteen years. Vaughn also received 731 days of credit for the time he served in pretrial detention. Vaughn now appeals.

Discussion and Decision

[13] Vaughn argues that his sentence is inappropriate.[1] We may revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. App. R. 7(B). The analysis pursuant to App. R. 7(B) is not to determine whether another sentence is more appropriate but rather whether the sentence imposed is inappropriate. *Conley v. State,* 972 N.E.2d 864, 876 (Ind. 2012).

[14] Whether a sentence is inappropriate turns on the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case. *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008). The defendant has the burden of persuading us that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). More particularly, the defendant must show that his sentence is inappropriate with "compelling evidence portraying in a positive light the nature of the offense[s] (such as accompanied by restraint, regard, and lack of brutality) and

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[1] Although Vaughn claims that his sole issue on appeal is whether his sentence is inappropriate, he also asserts that the trial court abused its discretion by "ignor[ing] mitigating circumstances," including his "difficult struggles with substance abuse and mental health." *Appellant's Brief* at 18. As our Supreme Court has recognized, inappropriate sentence and abuse of discretion claims are to be analyzed separately. *Anglemyer v. State,* 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g,* 875 N.E.2d 218 (Ind. 2007); *see also Foutch v. State,* 53 N.E.3d 577, 580 n.1 (Ind. Ct. App. 2016). Accordingly, because Vaughn has failed to present a separate, cogent argument with the appropriate standard of review regarding the trial court's sentencing discretion, he has waived the issue for appellate review. *See* Ind. Appellate Rule 46(A)(8)(a)-(b); *see also Foutch,* 53 N.E.3d at 580 n.1.

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).

[15] In determining whether a sentence is inappropriate, the advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed. *Brown v. State*, 160 N.E.3d 205, 220 (Ind. Ct. App. 2020). Vaughn was convicted of Level 3 and Level 5 felonies. The sentencing range for a Level 3 felony is between three and sixteen years, with an advisory sentence of nine years. Ind. Code § 35-50-2-5. The trial court ordered Vaughn to serve thirteen years on that conviction. The range for a Level 5 felony is between one and six years, with a three-year advisory sentence. I.C. § 35-50-2-6(b). Vaughn was ordered to serve five years for that offense. Finally, the sentence for a Class A misdemeanor is not to exceed one year, and Vaughn was ordered to serve one year on that offense. I.C. § 35-50-3-2. Rather than ordering Vaughn to serve the possible maximum consecutive sentence of twenty-three years on the offenses, the trial court sentenced him to an aggregate term of thirteen years.

[16] 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). An enhanced sentence is not inappropriate when the nature of the offense is invasive, threatening, or violent. *Eisert v. State,* 102 N.E.3d 330, 334-35 (Ind. Ct. App. 2018), *trans. denied.*

[17] In this case, the evidence established that Vaughn attacked Jenea when she was at home with her four children. While threatening Jenea with a large knife, Vaughn ordered her to unlock her phone so he could view the communications that she had with others. When Jenea refused, Vaughn swung a meat cleaver knife at Jenea, cut one of her hands, and stabbed the other. Jenea's teenaged daughter witnessed the attack and saw her mother attempt to defend herself from being hit and stabbed with a knife. In short, the offenses were invasive, threatening, and violent, and Vaughn has failed to paint the nature of his offenses in a positive light. The nature of Vaughn's offenses does not warrant a revision of his sentence.

[18] Turning to the character of the offender, 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). We conduct our review of a defendant's character by engaging in a broad consideration of his qualities. *Madden*, 162 N.E.3d at 564. When assessing the character of an offender, one relevant factor is the offender's criminal history. *Denham v. State,* 142 N.E.3d 514, 517 (Ind. Ct. App. 2020), *trans. denied.* The significance of a criminal history in assessing a defendant's character and an appropriate sentence varies based on the gravity, nature, and number of prior offenses in relation to the current offense. *Rutherford v. State,* 866 N.E.2d 867, 874 (Ind. Ct. App. 2007).

[19] Vaughn has three prior felony and two prior misdemeanor convictions. Three of those convictions were for violent offenses. At the sentencing hearing, Vaughn denied committing the offenses, insisted that he would continue to

violate protective orders, and he blamed Jenea for his abusive and violent behavior that resulted in the issuance of the protective orders. Vaughn refuses to take medication for his mental health disorders, and although he has been afforded numerous opportunities to reform his behavior, he has continued to commit new crimes. These circumstances reflect poorly on his character. *See Norton v. State,* 137 N.E.3d 974, 989 (Ind. Ct. App. 2019) (affirming the defendant's sentence when it was established that he had been given numerous opportunities to avoid incarceration in the past through alternative sentences, but he continued to commit crimes), *trans. denied.*

[20] In sum, Vaughn has not shown that his thirteen-year sentence is inappropriate in light of either the nature of his offenses or his character.

[21] Judgment affirmed.

Brown, J. and Tavitas, J., concur.