MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Matthew Lee Thomas,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

April 17, 2023

Court of Appeals Case No. 22A-CR-2086

Appeal from the Vanderburgh Superior Court

The Hon. Robert J. Pigman, Judge

Trial Court Cause Nos.
82D03-2102-F1-918
82D03-1901-F6-485
82D03-1903-F6-1934

Memorandum Decision by Judge Bradford
Judges Mathias concurs.
Judge May dissents with a separate opinion.

Bradford, Judge.

Case Summary

[1] Matthew Thomas pled guilty to two counts of Level 1 felony child molesting, Level 1 felony attempted child molesting, two counts of Level 4 felony child molesting, Level 4 felony child exploitation, Level 5 felony possession of child pornography, Level 6 felony performing sexual conduct in the presence of a minor, two counts of Level 6 felony operating a vehicle as a habitual traffic violator ("HTV"), Level 6 felony failure to appear, and Class A misdemeanor marijuana possession, in addition to admitting that he was a habitual offender. The trial court sentenced Thomas to a total of thirty-two years and 360 days of incarceration. Thomas argues that his sentence in inappropriately harsh in light of the nature of his offenses and his character, while the State argues that the sentence is inappropriately lenient. Because we find that Thomas's sentence is neither inappropriately harsh nor inappropriately lenient, we affirm.

Facts and Procedural History

[2] On January 16, 2019, Thomas was driving in Evansville when he was stopped for failing to signal a turn. Thomas exited his vehicle and informed the officer that he did not have a driver's license and was an HTV. Thomas was arrested and charged with two counts of Level 6 felony operating a vehicle as an HTV in cause number 82D03-1901-F6-485 ("Cause No. 485"). Approximately two months later, Thomas was stopped again after a police officer recognized his car. The officer knew that Thomas had an outstanding arrest warrant, and a check confirmed that Thomas was the owner of the vehicle and an HTV. The officer initiated a traffic stop and Thomas was arrested; while being transported

to jail, Thomas informed police that he was in possession of marijuana. The State charged Thomas in cause number 82D03-1903-F6-1934 ("Cause No. 1934") with Level 6 felony operating as an HTV, Level 6 felony failure to appear, and Class A misdemeanor marijuana possession, in addition to an allegation that Thomas was a habitual offender.

[3] Meanwhile, Thomas was dating Shanay Cawthorne, with whom he had a son. Cawthorne lived with Thomas and her three other children at three different Evansville residences over the course of their relationship, including on East Louisiana, Garfield, and Dresden Streets. On February 18, 2021, while Thomas was on pretrial release in Cause Nos. 485 and 1935, Cawthorne discovered a series of video recordings on his mobile telephone depicting Thomas engaging in multiple sex acts with her daughter, V.E., who was then only ten years old. The first video showed V.E. performing oral sex on Thomas on the couch in the living room at the family's Dresden Street home. The second depicted V.E., who appeared to be wearing no clothes below her waist, with her legs positioned on the couch and Thomas, who was wearing no pants, "between her legs." Appellant's App. Vol. II p. 228. The third video showed V.E., again with no clothes on below her waist, positioned on her hands and knees and "rocking back and forth against Thomas[,]" who also was wearing no pants. Appellant's App. Vol. II p. 229.

[4] When Cawthorne confronted Thomas about the videos, he began to cry, apologized, and asked her to forgive him. Thomas admitted that he had begun molesting V.E. the previous December. When Cawthorne asked V.E. about the

molestation, V.E. told her that Thomas had sexually assaulted her "multiple times" and "not just in the house on Dresden." Appellant's App. Vol. II p. 229. V.E. told Cawthorne that Thomas had "made her do it[,]" told her that he would be "mad" at her if she told anyone, and threatened that he "wouldn't speak to her mother or little brother if she told." Appellant's App. Vol. II p. 229.

[5] V.E. underwent a forensic interview, during which she disclosed numerous instances of molestation by Thomas at the family's homes on Dresden, East Louisiana, and Garfield Streets. V.E. described how Thomas had once approached her while Cawthorne was in the shower and her brothers were upstairs and had told her to come with him to the couch. Thomas had removed his pants and exposed his penis to V.E., which she described as having been "'black, brown and hairy'" and "'old and wrinkly[.]'" Appellant's App. Vol. II p. 229. Thomas had forced V.E. to "go up and down with her mouth on his private part until 'white stuff came out[.]'" Appellant's App. Vol. II p. 229. V.E. reported having spit Thomas's ejaculate into the trash. V.E. also told the forensic interviewer that, on another occasion, Thomas had removed her pants and, while laying on top of her, "put his private part in her butt cheeks[.]" Appellant's App. Vol. II p. 229. V.E. also reported that once, when she was living at the Garfield Street residence, Thomas had begun rubbing her vagina with his fingers while he touched his penis with his other hand. V.E. told her interviewer that this had "hurt because his nails were sharp." Appellant's App. Vol. II p. 229.

[6] Thomas was charged in cause number 82D03-2102-F1-918 ("Cause No. 918") with two counts of Level 1 felony child molesting, Level 1 felony attempted child molesting, two counts of Level 4 felony child molesting, Level 4 felony child exploitation, Level 5 felony possession of child pornography, and Level 6 felony performing sexual conduct in the presence of a minor. On April 19, 2022, Thomas entered open pleas of guilty for each of the counts charged in Cause Nos. 918, 485, and 1934. After being advised of his rights by the trial court, Thomas admitted to the factual allegations, and the trial court accepted Thomas's pleas.

[7] Thomas's sentencing hearing was held on June 17, 2022. The presentence investigation report ("PSI") submitted by the Probation Department recommended that Thomas be sentenced to thirty-five years for each of his Level 1 felony convictions, to be enhanced by ten years, plus ten years each for his Level 4 felony convictions, four years for his Level 5 felony conviction, and 547 days each for his Level 6 felony convictions. Appellant's App. Vol. II p. 88. The PSI did not include a recommendation regarding whether any sentences should be served consecutively. The State called Cawthorne as its only witness. Cawthorne testified that she had permitted V.E. to miss the sentencing hearing because she "could just tell that every given second was just heartbreaking for her knowing that she was going to come in this room and see Matthew Thomas again[.]" Tr. Vol. II p. 22. Cawthorne opined that "thirty years is not enough" for Thomas's sentence and informed the court that V.E. had enrolled in counseling. Tr. Vol. II p. 22. Both Thomas and the State

referred to statements made by the trial court wherein the judge had previously suggested that he thought a thirty-year sentence was appropriate for Cause No. 918. Thomas argued that the "previously discussed sentence is appropriate" based on his mental-health history and his criminal record. Tr. Vol. II p. 27. The State responded that, "I know the Court has said that the Court would sentence him to thirty years but I think more is certainly appropriate" and requested that the trial court issue a sentence "significantly more than thirty years" to be served executed in its entirety at the Department of Correction. Tr. Vol. II p. 29.

[8] The trial court entered judgment of conviction on all counts except one count of operating as a HTV in Cause No. 485 and ordered that Thomas's base sentences be an aggregate term of twenty years in Cause No. 918, an aggregate term of one year and 180 days in Cause No. 485, and an aggregate term of one year and 180 days in Cause No. 1934. By virtue of Thomas's status as a habitual offender, the trial court ordered the sentence for one of the Level 1 felony child-molesting convictions in Cause No. 918 be enhanced by ten years and ordered a separate two-year enhancement for Cause No. 1934, to be served concurrently with the enhancement in Cause No. 918. In its written sentencing order, the court clarified that it had determined that the "standard sentence in all counts" was appropriate after finding Thomas's criminal history as an aggravating circumstance and Thomas's guilty plea and history of mental

illness as mitigating circumstances. All told, the trial court imposed an aggregate sentence of thirty-two years and 360 days of incarceration.[1]

Discussion and Decision

A. Inappropriately Harsh

[9] Thomas argues that, in light of the nature of his offenses and his character, his nearly-thirty-three-year executed sentence is inappropriately harsh, while the State argues that his sentence is inappropriately lenient. We "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Ind. Appellate Rule 7(B). "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Shouse v. State*, 849 N.E.2d 650, 660 (Ind. Ct. App. 2006) (citations and quotation marks omitted), *trans. denied*. "[W]hether 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

[1] Thomas's maximum exposure in Cause No. 918 alone exceeded 200 years of incarceration. Specifically, the trial court could have sentenced Thomas to fifty years of incarceration for each for his two convictions for Level 1 child molesting, forty years for his conviction for Level 1 felony attempted child molesting, twelve years for each of his three Level 4 felony convictions, five years for his Level 5 felony conviction, and two and one-half years for his Level 6 felony conviction; ordered that all sentences be served consecutively; and enhanced one of the Level 1 or Level 4 felony sentences by twenty years by virtue of Thomas's status as a habitual offender, which would have resulted in an aggregate sentence of 203½ years of incarceration. Ind. Code §§ 35-50-2-4(b), -(c); 35-50-2-5.5; 35-50-2-6(b); 35-50-2-7(b); 35-50-2-8(i).

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). In addition to the "due consideration" we are required to give to the trial court's sentencing decision, "we understand and recognize the unique perspective a trial court brings to its sentencing decisions." *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007).

[10] We have little trouble concluding that the nature of his offenses does not warrant a lesser sentence. The nature of Thomas's offenses was, to say the least, heinous. Thomas took advantage of his position of authority as his victim's mother's boyfriend and (presumably) her caretaker to repeatedly molest her, even filming the incidents. As the Indiana Supreme Court has recognized, "[a] harsher sentence is […] more appropriate when the defendant has violated a position of trust that arises from a particularly close relationship between the defendant and the victim, such as a parent-child or stepparent-child relationship." *Hamilton v. State*, 955 N.E.2d 723, 727 (Ind. 2011). It would also seem that V.E. was not the only minor exploited by Thomas, as his telephone contained other items of child pornography. Finally, Thomas threatened V.E. by telling her that he would not speak to her mother or brother again if she reported what had happened. A result of Thomas's offenses was that V.E. was apparently too distraught to face Thomas at his sentencing hearing and was about to start therapy.

[11] We also have little trouble concluding that Thomas's character does not warrant a reduced sentence, particularly in light of his extensive criminal

history. "The character of the offender is found in what we learn of the offender's life and conduct." *Croy v. State*, 953 N.E.2d 660, 664 (Ind. Ct. App. 2011). We consider several circumstances to evaluate whether a defendant's character warrants a change to his sentence, including whether the defendant has expressed remorse for his crimes, *Gibson v. State*, 51 N.E.3d 204, 216 (Ind. 2016); whether he has successfully obtained treatment or rehabilitation for past illegal behaviors, *id.*; whether he is likely to be deterred from committing new crimes, *Cotto v. State*, 829 N.E.2d 520, 526 (Ind. 2005); whether he was on probation, parole, or pretrial release in another case at the time he committed the underlying offense, *Childress v. State*, 848 N.E.2d 1073, 1081 (Ind. 2006); and whether he has a criminal history, *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (2007).

[12] The record indicates that Thomas has a lengthy and significant criminal history, which reflects poorly on his character. Criminal history is generally relevant with respect to the character inquiry and can be significant evidence of poor character depending on the "gravity, nature, and number of prior offenses in relation to the current offense." *Johnson v. State*, 986 N.E.2d 852, 857 (Ind. Ct. App. 2013). Thomas, who was born in December of 1985 and is now thirty-eight years old, has a criminal history spanning essentially the entirety of his adult life. Thomas's first conviction, a drug-related offense, occurred just one month after his eighteenth birthday, and in the years since his record has grown to include convictions for nine felonies and ten misdemeanors, including

multiple convictions for violent offenses, namely, criminal confinement, burglary, and domestic battery.

[13] There is little evidence that Thomas has reformed his criminal behavior, even though given myriad opportunities to do so. Thomas has received the benefit of multiple lenient sentences and rehabilitative placements, ranging from deferral programs, community service, probation, home detention, to short-term incarceration. Despite this, he has continued to commit increasingly serious crimes. Thomas has committed multiple probation violations and has previously had his probation revoked. Finally, at the time Thomas molested V.E., he was on pretrial release in Cause Nos. 485 and 1934, as well as a third case involving charges of unlawful possession of a firearm by a SVF and possession of marijuana. *See Eisert v. State*, 102 N.E.3d 330, 335 (Ind. Ct. App. 2018) ("[T]he fact that he repeatedly violated pre-trial release […] does not suggest Eisert is a person who respects the law or the court's authority."), *trans. denied*.

[14] Although the trial court's sentencing order cites Thomas's guilty plea as a factor warranting a more lenient sentence, we cannot say that this is necessarily significant evidence of good character. In some cases, a guilty plea may be entitled to mitigating weight because it demonstrates either that a defendant has taken responsibility for his wrongdoing or because it results in savings in time and resources to the State that would have been spent litigating his case at trial. *Sensback v. State*, 720 N.E.2d 1160, 1165 (Ind. 1999); *Kinkead v. State*, 791 N.E.2d 243, 247 (Ind. Ct. App. 2003), *trans. denied*. Under the circumstances,

however, we cannot say Thomas is entitled to have his sentence further reduced because he pled guilty, given that the State had three different video recordings of him molesting V.E. that could have been used as evidence against him at trial. *See Sensback*, 720 N.E.2d at 1165 (concluding that a defendant was not entitled to mitigating weight when guilty plea was a pragmatic decision).

[15] Moreover, while Thomas purported to be "truly, truly, truly sorry for every mistake that I've ever made in my life" during his allocution, Tr. Vol. II pp. 37–38, he never mentioned V.E. by name, nor did he apologize specifically for the harm he caused her. (Tr. Vol. II 33–38). *See Deane v. State*, 759 N.E.2d 201, 205 (Ind. 2001) ("Lack of remorse is a proper factor to consider in imposing a sentence."). That Thomas did not directly refer to his victim when he had the opportunity to do so mitigates against an even shorter sentence than the near-minimum sentence imposed.

[16] As for Thomas's mental illnesses, although it is undisputed that Thomas has received several mental-health diagnoses over the course of his life, Thomas has failed to adequately explain how any of these conditions made him less culpable for his decision to repeatedly molest a ten-year-old girl while filming himself doing so. *See Covington v. State*, 842 N.E.2d 345, 349 (Ind. 2006) (concluding that mitigating weight of mental illness turns on "extent of the inability to control behavior, the overall limit on function, the duration of the illness, and the nexus between the illness and the crime."). To the extent there is some link between Thomas's criminal behavior and his mental illnesses, the treatment he has received for them does not seem to have much effect. Thomas

purportedly began receiving mental-health treatment in childhood and was enrolled in therapy and had been prescribed medications for his mental illnesses at the time he was charged with molesting V.E. During that period however, Thomas failed to attend multiple counseling sessions and allowed his prescription to lapse. To the extent that Thomas's decision to repeatedly subject V.E. to sexual abuse had anything to do with his mental illness, that evidence is not compelling enough to warrant a sentence reduction. In light of the nature of his offenses and his character, Thomas has failed to establish that his sentence is inappropriately harsh.

B. Inappropriately Lenient

[17] As mentioned, the State argues that Thomas's nearly-thirty-three-year sentence is inappropriate because it is too short, requesting that we increase it to an aggregate sentence of sixty-three-and-one-half years of incarceration. This is consistent with the prosecutor's request at sentencing that Thomas be sentenced to "significantly more" than thirty years of incarceration for his convictions in Cause No. 918 and the Probation Department's recommendation for a lengthier sentence in the PSI. Tr. Vol. II p. 29. The Indiana Supreme Court's decision in *McCullough v. State*, 900 N.E.2d 745, 750 (Ind. 2009), recognized that, when a defendant requests independent review of his sentence, appellate courts have the option either to affirm, reduce, or increase the sentence imposed. As *McCullough* notes, "[t]he word 'revise' is not synonymous with 'decrease,' but rather refers to any change or alteration." *Id.* at 749 (quoting Ind. Appellate Rule 7(B)). Pursuant to *McCullough*, the State may "present reasons supporting

an increase in the sentence" when responding to a defendant's Rule 7(B) claim. *Id.* at 750.

[18] The State's argument for a longer sentence is essentially the same as its argument against a shorter one, *i.e.*, the severity of Thomas's offenses and his criminal history, alleged lack of remorse, seeming failure to take responsibility for his actions, and failure to establish a nexus between his mental illness and his criminal behavior. Although the trial court could have imposed a far longer sentence in this case, the question is not whether such a sentence could be characterized as more appropriate, but, rather, whether the sentence the trial actually imposed is appropriate.

[19] The State points out that Thomas's sentence was very near the minimum sentence he could have received. While true, Thomas *has* been sentenced to over thirty-two years of incarceration, and we feel it is worth noting that, by virtue of his convictions for multiple counts of Level 1 felony child molesting and his and V.E.'s respective ages at the time of his offense, he is automatically classified as a credit-restricted felon. *See* Ind. Code § 35-31.5-2-72(1). Consequently, the best Thomas will ever be entitled to earn against that sentence is Class C credit and will spend a minimum of approximately twenty-seven years in prison. *See* Ind. Code § 35-50-6-3.1(d) (providing that a person assigned to Credit Class C earns one day of good time credit for every six days served), Ind. Code § 35-50-6-4(c) (providing that a credit-restricted felony is initially assigned to credit Class C and may never be assigned to a credit class in which he would accrue credit time more quickly). While Thomas's sentence

could have been much longer, he still received a very lengthy sentence and will be in his mid-to-late sixties when he completes it.

[20] The State argues that Thomas's guilty plea was nothing more than a pragmatic decision. Whatever Thomas's reasons for pleading guilty, it is true that V.E. and others were spared the trauma of a trial while Vanderburgh County was spared the expense. Moreover, while the State also emphasizes that Thomas did not mention V.E. by name in his allocution, he did apologize for "every mistake that [he'd] ever made in my life[,]" which certainly encompasses the offenses here. Tr. Vol. II pp. 37–38. It was for the trial court to evaluate the sincerity of Thomas's expressions of remorse, and, to the extent that it did find him to be sincerely remorseful, that is not for us to second-guess. The trial court was also in a much better position than we are to evaluate the significance of Thomas's mental illnesses. Because the trial court was in the best position to evaluate Thomas's mental illness, we find that his sentence is not inappropriately lenient.

[21] We affirm the judgment of the trial court.

Mathias, J., concurs.

May, J., dissents with a separate opinion.

May, Judge, dissenting.

[1] Because I believe Thomas's sentence should be revised upward as requested by the State, I respectfully dissent. In *McCullough v. State*, our Indiana Supreme Court held, pursuant to Article 7, Sections 4 and 6 of the Indiana Constitution, that appellate courts have the authority to revise a sentence upward when the defendant puts the appropriateness of his sentence at issue on appeal. 900 N.E.2d 745, 751 (Ind. 2009). Since *McCullough*, we have mostly either rejected the State's invitations to revise a sentence upward or noted that the facts would have supported a greater sentence without ultimately increasing the sentence. *See*, *e.g.*, *Wellings v. State*, 184 N.E.3d 1236, 1240 (Ind. Ct. App. 2022) ("While the nature of this offense and Wellings' character could justify a more severe sentence, we choose to defer to the good judgment of the trial judge who was present and considered all the evidence at the sentencing hearing."); *Atwood v. State*, 905 N.E.2d 479, 488 (Ind. Ct. App. 2009) (declining State's request to revise defendant's sentence upward), *trans. denied*.

[2] In *Akard v. State*, our Indiana Supreme Court reversed our decision that sua sponte revised the defendant's aggregate sentence upward from 93-years to 118-years. 937 N.E.2d 811, 812 (Ind. 2010). The Court held the defendant's sentence was not inappropriate when the trial court sentenced the defendant to the term of years the State asked the trial court to impose and when the State did not argue on appeal that the sentence was inappropriate. *Id.* at 814. Likewise, in *Holt v. State*, we declined to revise the defendant's sentence upward when the State tacitly agreed at trial with the trial court's sentencing decision, even though the State argued for an upward revision of the defendant's sentence

on appeal.[2] 62 N.E.3d 462, 465 (Ind. Ct. App. 2016). However, herein, the State asked the trial court to impose a sentence of "significantly more than thirty years." (Tr. Vol. II at 29.) Moreover, on appeal, the State asks us to hold Thomas's sentence is inappropriately short and revise his sentence upward to an aggregate term of sixty-three-and-a-half years.[3]

[3] Our principal role in reviewing the appropriateness of a defendant's sentence pursuant to Rule 7(B) is to "leaven the outliers," *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008), and Thomas's sentence is an outlier in terms of its leniency. *Cf.* *Carranza v. State*, 184 N.E.3d 712, 717 (Ind. Ct. App. 2022) (holding trial court's finding of valid aggravating factors supported aggregate forty-three year sentence for one count of Level 1 felony child molesting and one count of Level 4 felony child molesting); *Wilmsen v. State*, 181 N.E.3d 469, 473 (Ind. Ct. App. 2022) (holding aggregate sentence of 190 years for ten sex crimes against minors was not inappropriate); and *Crabtree v. State*, 152 N.E.3d 687, 705 (Ind. Ct. App. 2020) (holding fifty year sentence for Level 1 felony child molesting was not inappropriate), *trans. denied*. Thomas's sentence is also less than what the probation department recommended. In the PSI, the probation department recommended in F1-918 that the trial court sentence

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[2] *Holt* was a split decision. The dissenting judge wrote that he would have invoked this court's authority to revise the defendant's sentence upward. 62 N.E.3d 462, 466-67 (Ind. Ct. App. 2016).

[3] The State requests in its brief that "[i]f this Court were to agree with the State's request to revise Thomas's sentence, the State recommends a sentence of 60.5 years under Cause F1-918, 1.5 years under Cause F6-1934, and 1.5 years under Cause F6-485[.]" (Appellee's Br. at 16 n.5.)

Thomas to thirty-five years for each of his Level 1 felony child molesting offenses, with one sentence enhanced by ten years because of Thomas's habitual offender status; ten years for each of his Level 4 felony child molesting and Level 4 child exploitation offenses; four years for his Level 5 felony possession of child pornography offense; and 547 days for his Level 6 felony performing sexual conduct in the presence of a minor offense.[4] Thus, the

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[4] From the PSI, I cannot determine the probation department's aggregate sentence recommendation because the recommendation does not address the manner in which Thomas should serve his sentences, whether concurrently or consecutively.

With respect to F1-918, the PSI states:

> Counts 1, 2, and 5: a period of 35 years, executed at the Indiana Department of Corrections [sic]
>
> Habitual Offender Enhancement: enhance Count 1 for a period of 10 years, for a total sentence of 45 years executed at the Indiana Department of Corrections [sic].
>
> Counts 3,4, and 6: a period of 10 years executed at the Indiana Department of Corrections [sic].
>
> Count 7: a period of 4 years executed at the Indiana Department of Corrections [sic].
>
> Count 8: a period of 547 days executed at the Indiana Department of Corrections [sic].

(App. Vol. II at 173.) The PSI groups Thomas's offenses by level of felony, but it is not clear from this grouping whether the probation department is simply stating each offense bearing a certain felony level designation should be given a certain sentence without opining on whether the sentences should be served concurrent or consecutive with each other or whether the PSI is recommending an aggregate sentence for all of Thomas's offenses at each level of felony. For example, counts 3, 4, and 6 are all Level 4 felonies. The PSI could be interpreted to mean the probation department is recommending Thomas receive a ten-year sentence for each Level 4 felony without specifying whether the sentences be served concurrent or consecutive with each other or it could be interpreted to recommend Thomas receive an aggregate sentence of ten years with all of his Level 4 felony offenses being served concurrently. If the recommendation is that Thomas receive an aggregate sentence of ten years with respect to all of his Level 4 felony offenses, the PSI does not indicate whether the ten-year sentence should be served concurrent or consecutive with Thomas's

minimum sentence recommended by the probation department was forty-five years.

[4] Neither the nature of Thomas's offenses nor his character merits the leniency he received. As the majority explains, Thomas's offenses were egregious. He abused a position of authority to molest the victim, and he threatened the victim in an effort to prevent her from reporting the molestations. Moreover, Thomas videotaped himself molesting the victim. In addition, as explained in the majority opinion, Thomas's criminal history is significant. Thomas's sentence is inappropriately short based on these factors, and I would have invoked our authority pursuant to Rule 7(B) to revise his sentence to sixty-three-and-a-half years. Therefore, I respectfully dissent.

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sentences for his offenses at other felony level designations. This lack of clarity thus diminishes the PSI sentencing recommendation's value to the sentencing judicial officer.