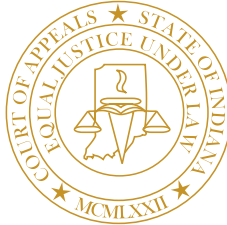


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.

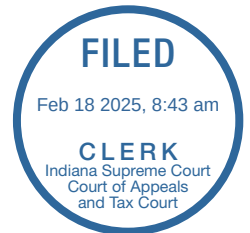


IN THE Court of Appeals of Indiana

Charles E. Stoudimire,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



February 18, 2025

Court of Appeals Case No.
24A-CR-622

Appeal from the Allen Superior Court
The Honorable Frances C. Gull, Judge

Trial Court Cause No.
02D05-2210-F1-37

Memorandum Decision by Judge Kenworthy
Judge Felix and DeBoer concur.

Kenworthy, Judge.

Case Summary

- [1] Following a jury trial, Charles Stoudimire was convicted of one count of Level 1 felony child molesting¹ and two counts of Level 4 felony child molesting.² The trial court ordered Stoudimire to serve an aggregate fifty-five-year sentence. Stoudimire appeals his convictions and sentence, raising three issues: (1) Did the trial court err in denying his motion for mistrial after two State's witnesses violated the witness separation order; (2) Were his convictions supported by sufficient evidence; and (3) Is his sentence inappropriate? We affirm.

Facts and Procedural History

- [2] Stoudimire's daughter, Charday Gary, has six children. Two of those children are involved in this case: daughters Jam.B. and Jal.B. Gary, the children, and Stoudimire all lived in Fort Wayne. Stoudimire lived by himself in a one-bedroom apartment, and the children would often visit and sometimes spend the night.
- [3] In February 2022, when Jam.B. was thirteen and Jal.B. was nine, Gary asked Stoudimire to take the children for the weekend. Stoudimire got the children after school on Friday, and Gary picked them up from Stoudimire's apartment

¹ Ind. Code § 35-42-4-3(a)(1) (2021).

² I.C. § 35-42-4-3(b).

on Sunday afternoon. Soon after, Jal.B. told her older brother, Jamar, about an incident between her and Stoudimire. Jamar in turn told their mother. Gary then spoke with Jam.B. and Jal.B. separately. Jam.B. was initially scared to say anything, “but she knew it was serious, so she finally just opened up[.]” *Tr. Vol. 2* at 153. Jal.B. is “goofy,” but when Gary “really set her down and talked to her, . . . her demeanor had changed[.]” *Id.* at 152. Acting on what the girls told her, Gary called Stoudimire, asking, “[Y]ou touching on your grandchild?” *Id.* Stoudimire denied it, but Gary told him, “I’m gonna do what I gotta do[.]” *Id.* Her “mind . . . racing” and unsure what to do, Gary called a friend, and together, they took the girls to the police station. *Id.* The children did not return to Stoudimire’s apartment after this.

[4] Officer Trent Hullinger of the Fort Wayne Police Department received a dispatch on February 28, 2022, for an investigation into a child molestation that “happened a few months before.” *Id.* at 217–18. He met with Gary, her friend, Jam.B., and Jal.B. on that day. Officer Hullinger spoke with both girls individually. Jam.B. was “very quiet” and “realized maybe the gravity of what happened” but provided “details that led [Officer Hullinger] to believe that a crime had occurred.” *Id.* at 220. Jal.B. was “definitely nervous” but “a little more comfortable speaking about it[.]” *Id.* at 218. Jam.B. said the events happened in the fall and around Thanksgiving 2021, but Jal.B. did not give a time frame. Based on what he was told, Officer Hullinger contacted the Detective Bureau and the Department of Child Services (“DCS”).

- [5] John Scott Qualls was one of the DCS assessment family case managers assigned to the case. He and another case manager interviewed the girls, and Jal.B. “disclosed, basically, sexual abuse to her by Mr. Stoudimire.” *Id.* at 232. Although the case came through the DCS hotline in February 2022, the girls talked about “things that had happened to them in December of 2021,” not recent incidents. *Id.* at 238.
- [6] Sara Drury conducted forensic interviews with the girls on March 15. At the time of the interviews, Jam.B. was thirteen and Jal.B. was nine. Jal.B. mentioned during her interview Stoudimire watched “[n]asty stuff” on TV or a cell phone with the volume loud enough for her to hear in her sleep. *Id.* at 188. Police obtained a search warrant for electronic devices and other evidence in Stoudimire’s apartment. Police seized DVDs, VHS tapes, six cell phones, and one laptop but found nothing inappropriate for children saved on any of the devices. The girls were also examined by a sexual abuse nurse examiner. No physical evidence was collected because the events were “past incidents, not recent.” *Id.* at 238.
- [7] The State charged Stoudimire with Level 1 felony child molesting for performing or submitting to sexual intercourse with Jam.B; Level 4 felony child molesting for performing or submitting to fondling with Jal.B.; and Level 4 felony child molesting for performing or submitting to fondling with Jam.B. All counts alleged the victim was a child under fourteen years of age and the conduct occurred between October 1, 2021, and February 19, 2022.

[8] A three-day jury trial began on January 17, 2024. At the State’s request, the trial court entered a separation of witnesses order and instructed counsel to “advise your witnesses that they are not to be in the courtroom except when they are testifying, they are not to discuss their testimony in the hallway with anybody other than each of you respectively, and they’re not to discuss the case with other witnesses that are waiting out in the hallways.” *Id.* at 4.

[9] Jam.B. was fifteen and in tenth grade at the time of trial. She testified she and her siblings used to go to Stoudimire’s every weekend. She described his apartment as “small”—with a living room and bedroom with “a big bed.” *Id.* at 166. She said something bad happened with Stoudimire two times when “it was kind of hot, like—so like during June/July.” *Id.* at 164. Jam.B. said on one occasion when she was thirteen, she was laying on Stoudimire’s bed, “just chilling on my phone, like a normal teen would do.” *Id.* at 167. Her siblings were in the living room watching television. Stoudimire came into the bedroom and laid down on the bed. He touched Jam.B.’s chest and her “private area” “[i]nside” with his hand. *Id.* at 167–68. Then, with their clothes off, Stoudimire touched Jam.B.’s “private area” with his “private.” *Id.* at 167. Jam.B. said Stoudimire’s private was “inside” her private area. *Id.* at 169. She explained, “It went halfway in, but it didn’t go all the way in.” *Id.* at 181. Her private area “was hurting,” she felt pain, and she wanted to cry. *Id.* at 169. Jam.B. “told him to get off” and went to the living room. *Id.* Stoudimire told her not to tell her mom. Jam.B. testified at trial she did not remember how her clothes were removed. When she was reminded on cross examination she told

the forensic examiner Stoudimire removed her clothes, Jam.B. said her memory of the events was better during the forensic interview than at trial.

[10] Jam.B. said she was fourteen “the other time,” and Stoudimire touched her with his hands over her clothes on her chest and “private area down here.” *Id.* at 169–70. Jam.B. stayed out of Stoudimire’s room after the second incident “and never went back in there ever again.” *Id.* at 172. She estimated the last incident happened “like two months” before Gary found out and took her to the police station. *Id.* at 174. On cross-examination, she said both incidents happened in 2022.

[11] Jal.B. was ten and in fifth grade at the time of trial. She testified Stoudimire touched her “more” than one time, but she detailed only one. *Id.* at 183. The last time Jal.B. saw Stoudimire, she had fallen asleep in the living room with her siblings. Stoudimire picked her up and put her on the bed in his bedroom. He “started touching on” Jal.B.’s private part with his hand. *Id.* at 185. Jal.B. said she felt uncomfortable and was scared while it was happening. Jal.B. said she told her mom about what happened but never told Jamar.

[12] Jamar testified he and his siblings went to Stoudimire’s apartment often. When they spent the night, he would sleep on the couch in the living room and Jam.B. and Jal.B. would sleep in the bed with Stoudimire. Jal.B. told him something in February 2022 about Stoudimire that made him mad. Jal.B. was crying when she talked to him, and Jamar told their mom what she said right away.

On cross-examination, Jamar said he saw Stoudimire “touching [his] sister.”
Id. at 198.

[13] After Gary, Jam.B., and Jal.B. testified, Qualls, now a former DCS family case manager, testified about the DCS investigation into the allegations. Qualls initially said he was assigned the case on February 19, 2022, but later agreed if the case was reported to law enforcement on February 28, that would be the date he was assigned. On cross-examination, Qualls noted the DCS report says he was assigned the case on February 19, but “it could very well have been February 28th.” *Id.* at 239. One more witness testified and then the court recessed for lunch.

[14] Before court resumed, Stoudimire’s counsel brought to the court’s attention a possible violation of the witness separation order. The court held a hearing outside the jury’s presence. Stoudimire’s niece, Lawanda, testified she had been in the hallway as Qualls left the courtroom after testifying. She heard him say ““Oh, man, oh, oh”” as if “he was flabbergasted what was going on,” and then she saw him stop to talk to Drury, who had not yet testified. *Tr. Vol. 3* at 31. She did not specifically hear any of their conversation but “felt like the frustration in his face when he came out of the courtroom” indicated he was talking about his testimony. *Id.* Drury was also called to the stand, saying she had testified in several cases and was generally familiar with separation of witness rules. She said she did talk to Qualls in the hallway after his testimony:

[W]e did talk about testifying in court. How he had a date wrong
and then I talked about how, at a previous deposition that I was

at, I said the wrong last name of somebody; we talked about how defense attorneys will quite often attack those things because they don't have anything else to attack.

* * *

I had asked him . . . what he would do when he has to testify after he had left DCS, because he doesn't have the access to any of those records after leaving, and that's what made him talk about the date, that he said he doesn't have access to any of those, so it's based on his memory and what he's able to remember when he comes here, but I don't know what the date was.

Id. at 33. Drury said there was no other conversation about what happened in the courtroom.

[15] Stoudimire moved for a mistrial because Drury “might have been coached or something along those lines in terms of what she should or shouldn't say during her testimony.” *Id.* at 35. The trial court denied the motion, because although Qualls and Drury had violated the witness separation order, “[i]t is a minor violation” and a mistrial “is an extreme remedy” for the violation. *Id.* at 37.³ The trial court noted, however, that if Stoudimire “wish[ed] to inquire of the witness in front of the jury that she violated the separation of witness order, I

³ Stoudimire did not specifically ask for Drury to be excluded as a witness, but the trial court noted her exclusion would also be an extreme remedy for this violation. *See id.*

think that's appropriate and you are certainly welcome to do that if you choose[.]" *Id.*

[16] Drury was later called as a witness by the State. On cross-examination, Stoudimire inquired about her conversation with Qualls. Drury said no one had specifically told her about the witness separation order for this trial.⁴ She again said she had spoken with Qualls: "[Qualls] mentioned to me that he got the wrong date for something, but I don't know what that date was for or what date it was, like he didn't tell me the number or the date or anything like that." *Id.* at 92.

[17] The jury found Stoudimire guilty of all three charges.

[18] At sentencing, Stoudimire's sister made a statement on his behalf and Stoudimire made a statement in allocution. The trial court found no mitigators and the following aggravators: Stoudimire's criminal record with multiple failed efforts at rehabilitation; Stoudimire significantly violated the position of trust he had with his granddaughters; and Stoudimire had multiple victims and molested both repeatedly. The trial court ordered Stoudimire to serve consecutive sentences of thirty-five years for the Level 1 felony and ten years for each of the Level 4 felonies.

⁴ Later, outside the presence of the jury, the trial court held the deputy prosecutors in contempt and fined them for failing to instruct their witnesses about the separation order they asked for. But the trial court reconsidered its contempt order after reviewing the transcript and rescinded its order upon finding the violation was not intentional.

The trial court did not abuse its discretion in denying Stoudimire’s motion for mistrial.

[19] We review a trial court’s decision to grant or deny a motion for mistrial for abuse of discretion. *Isom v. State*, 31 N.E.3d 469, 480 (Ind. 2015), *cert. denied*. The trial court’s decision deserves deference because the court “is in the best position to gauge the surrounding circumstances of the event and its impact on the jury.” *Pavey v. State*, 764 N.E.2d 692, 698 (Ind. Ct. App. 2002), *trans. denied*. “A mistrial is an extreme remedy that is only justified when other remedial measures are insufficient to rectify the situation.” *Isom*, 31 N.E.3d at 481 (quotation omitted). “To prevail on appeal from the denial of a motion for mistrial, the appellant must establish that the questioned conduct ‘was so prejudicial and inflammatory that he was placed in a position of grave peril to which he should not have been subjected.’” *Mickens v. State*, 742 N.E.2d 927, 929 (Ind. 2001) (quoting *Gregory v. State*, 540 N.E.2d 585, 589 (Ind. 1989)). The gravity of the peril is weighed by the probable persuasive effect on the jury rather than the nature of the conduct itself. *Id.*

[20] Stoudimire moved for a mistrial based on the violation of the witness separation order. The trial court must grant a party’s request for witnesses to be excluded from the courtroom “so that they cannot hear other witnesses’ testimony.” Ind. Evid. Rule 615. “The primary purpose of a separation of witnesses order is to prevent witnesses from gaining knowledge from the testimony of other witnesses and adjusting their testimony accordingly.” *Spinks v. State*, 122 N.E.3d 950, 955 (Ind. Ct. App. 2019) (quotation omitted). The remedy for a

violation of a separation order “is wholly within the discretion of the trial court” and we will not disturb that decision absent a clear abuse of discretion. *Joyner v. State*, 736 N.E.2d 232, 244 (Ind. 2000).

[21] Stoudimire claims the “gravity of the peril is shown by the fact that both the State and defense were attempting to clarify when Qualls got involved in the case in order to identify the timeline for when certain essential events occurred.” *Appellant’s Br.* at 21. We disagree—time was not of the essence in this case and Qualls’ testimony was not a critical point to Stoudimire’s defense. *See Gaby v. State*, 949 N.E.2d 870, 876 (Ind. Ct. App. 2011) (observing time is not of the essence for the crime of child molesting with few exceptions, “such as when the victim’s age at the time of the offense falls at or near the dividing line between classes of felonies”). Stoudimire was charged with molesting Jam.B. and Jal.B., both children under fourteen years of age. The events occurred *at the latest* on February 28, 2022, when Gary took the girls to the police station, and they disclosed the molestation. Jam.B. testified she was fourteen when one of the incidents happened; but based on her birthdate, there is no question she was under fourteen on February 28. *See id.* (noting where the victim’s age is not near any such dividing line, “the only requirement is that the charging information allege that the offense was committed within the statutory period of limitations”). Moreover, if there was some reason why pinning down the date Qualls became involved was important, he had already testified before the conversation with Drury occurred, and Stoudimire had a full opportunity to cross-examine him about the date discrepancy.

[22] Further, Lawanda said she observed Qualls and Drury talking after Qualls' testimony; Qualls seemed frustrated, but she could not hear what they were talking about. Drury's testimony was the only evidence of what was discussed. Drury said Qualls told her he got a date wrong during his testimony, but he did not tell her what the date was, or why he was questioned about the date. Even if he had told her, the date Qualls was assigned to the case is irrelevant to *Drury's* involvement in the case. They did not discuss any other particulars of Qualls' testimony, and there is no evidence Drury adjusted her testimony in any way because of their conversation. The State only asked her about her involvement in forensic interviews on March 15, 2022. Here, too, Stoudimire had the opportunity to cross-examine Drury and questioned her in front of the jury about the conversation she had with Qualls. She testified consistently with what she had told the trial court earlier: she and Qualls did not discuss the facts of the case. Stoudimire has not met his burden of showing the violation of the witness separation order had a probable persuasive effect on the jury.

[23] Every violation of a trial court's order for separation of witnesses does not require a mistrial. *Hightower v. State*, 296 N.E.2d 654, 657 (Ind. 1973), *cert. denied*. And a separation order does not require witnesses to refrain from all communication with other witnesses. *McClendon v. Triplett*, 184 N.E.3d 1202, 1212 (Ind. Ct. App. 2022), *trans. denied*. We conclude Stoudimire has failed to demonstrate he was placed in a position of grave peril by the violation of the

witness separation order and has therefore failed to show the trial court abused its discretion in denying his motion for mistrial.⁵

Jam.B.’s and Jal.B.’s testimony was not incredibly dubious and sufficient evidence supports Stoudimire’s convictions.

[24] A sufficiency-of-the-evidence claim warrants a “deferential standard of review in which we ‘neither reweigh the evidence nor judge witness credibility[.]’” *Hancz-Barron v. State*, 235 N.E.3d 1237, 1244 (Ind. 2024) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). Instead, we respect the fact-finder’s exclusive province to weigh conflicting evidence, *Phipps v. State*, 90 N.E.3d 1190, 1195 (Ind. 2018), and consider only the probative evidence and reasonable inferences that support the judgment of the trier of fact, *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Teising v. State*, 226 N.E.3d 780, 783 (Ind. 2024). It is “not necessary that the evidence ‘overcome every reasonable hypothesis of

⁵ Stoudimire claims prejudice is presumed upon a violation of a witness separation order, citing *Stafford v. State*, 736 N.E.2d 326 (Ind. Ct. App. 2000), *trans. denied*. See *Appellant’s Br.* at 21. We recognize *Stafford* does say that, relying on Justice Boehm’s dissent in *Hernandez v. State*, 716 N.E.2d 948, 955 (Ind. 1999). 736 N.E.2d at 330–31. But *Hernandez* and *Stafford* apply when a trial court improperly determines a witness was an essential witness under Evidence Rule 615; they do not address the remedy for a witness’s violation of a trial court’s separation order. Substantial precedent indicates the party challenging the trial court’s decision in the latter case bears the burden of demonstrating prejudice. See, e.g., *Hitt v. State*, 478 N.E.2d 65, 69 (Ind. 1985) (finding no error in the trial court’s denial of the defendant’s motion for mistrial based on witness’s violation of a separation order and observing the “burden is on the defendant to show that he was harmed and placed in grave peril by the ruling”).

innocence.’” *Sallee v. State*, 51 N.E.3d 130, 133 (Ind. 2016) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)).

[25] We may make an exception, however, when testimony is incredibly dubious. The incredible dubiousity rule allows the reviewing court to impinge upon the fact-finder’s responsibility to judge the credibility of witnesses when confronted with evidence that is “so unbelievable, incredible, or improbable that no reasonable person could ever reach a guilty verdict based upon that evidence alone.” *Moore v. State*, 27 N.E.3d 749, 751 (Ind. 2015). We apply the rule where there is: “1) a sole testifying witness; 2) testimony that is inherently contradictory, equivocal, or the result of coercion; and 3) a complete absence of circumstantial evidence.” *Id.* at 756. Application of the incredible dubiousity rule is “rare[,] and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.” *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002). Although incredible dubiousity “provides a standard that is ‘not impossible’ to meet, it is a ‘difficult standard to meet, [and] one that requires great ambiguity and inconsistency in the evidence.’” *Moore*, 27 N.E.3d at 756 (quoting *Edwards v. State*, 753 N.E.2d 618, 622 (Ind. 2001)).

[26] Our Supreme Court has held each of the three factors must be satisfied to invoke the incredible dubiousity rule. *See id.* at 758. Stoudimire makes an argument for each of the three factors, but we conclude he has failed to show there is testimony that is inherently contradictory, equivocal, or the result of

coercion. Therefore, we need not address the other two factors because the incredible dubiousity exception does not apply here.

[27] Stoudimire directs our attention to “contradiction[s] as to time” in Jam.B.’s and Jal.B.’s testimonies. *Appellant’s Br.* at 24. To the extent Stoudimire points out inconsistencies between the timeframes the girls gave at trial and the time frames other witnesses said the girls had given, the incredible dubiousity rule “applies only when a witness contradicts herself . . . in a single statement or while testifying, and does not apply to conflicts between multiple statements.” *Carter v. State*, 31 N.E.3d 17, 31 (Ind. Ct. App. 2015), *trans. denied*. Moreover, “[i]t is difficult for children to remember specific dates,” and an abused child often “loses any frame of reference in which to compartmentalize the abuse into distinct and separate transactions.” *Baker v. State*, 948 N.E.2d 1169, 1174 (Ind. 2011). Both girls unequivocally testified they last stayed at Stoudimire’s apartment in February 2022 and the events occurred before that.⁶

[28] With respect to Jam.B.’s testimony, Stoudimire points out she said at the forensic interview Stoudimire had taken her clothes off during one incident but said at trial she did not remember how her clothes came to be off. But that is not a contradiction. Both statements can be true: remembering a detail soon

⁶ As noted above, although Jam.B. said she was fourteen years old at the time Stoudimire put his hand on her chest and in her private area, she could not have been fourteen. *See supra* ¶ 21. Her recollection of her age may have been wrong, but that neither makes her testimony incredibly dubious nor implicates the validity of Stoudimire’s conviction of Level 4 felony child molesting.

after an event happened but no longer remembering that detail two years later is not unusual. Stoudimire also notes Jam.B. testified Stoudimire's private part went "inside, but not all the way" but later said, "like it didn't go in."

Appellant's Br. at 24 (quoting *Tr. Vol. 2* at 169, 181). Stoudimire selectively quotes Jam.B.'s testimony, however. *See Tr. Vol. 2* at 181 (Jam.B. saying—omitting defense counsel's interruptions—"Like he put it inside me, but I couldn't feel it, like it didn't go in[,] like it went halfway in."). There is nothing contradictory about Jam.B.'s statements in their entirety.

[29] As to Jal.B., Stoudimire focuses on her testimony that she did not tell Jamar what Stoudimire did, whereas Jamar testified she told him, and he told their mother right away. But the incredible dubiousity rule applies when there are contradictions within a witness's own testimony, "not in the context of other evidence." *Reynolds v. State*, 142 N.E.3d 928, 943 (Ind. Ct. App. 2020), *trans. denied*.

[30] Having reviewed the record, we reject Stoudimire's claim that the girls' trial testimony was incredibly dubious. Both girls testified Stoudimire touched them inappropriately. They did not equivocate, and their description of events was not improbable or illogical. To the extent Stoudimire raises the broader question of sufficiency, both girls testified Stoudimire fondled them, and Jam.B. testified Stoudimire put his private part "halfway" inside her. *Tr. Vol. 2* at 181. Evidence of even slight penetration is sufficient to prove "sexual intercourse" and therefore Level 1 felony child molesting. *See Spurlock v. State*, 675 N.E.2d 312, 315 (Ind. 1996). In general, the uncorroborated testimony of the victim is

enough to sustain a conviction. *Bailey v. State*, 979 N.E.2d 133, 135 (Ind. 2012). The evidence is sufficient to support Stoudimire’s convictions.

Stoudimire’s sentence is not inappropriate.

- [31] Finally, Stoudimire asks us to revise his sentence. The Indiana Constitution authorizes this Court to review and revise a trial court’s sentencing decision as provided by rule. Ind. Const. art. 7, § 6. Indiana Appellate Rule 7(B) provides 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.” The principal role of appellate review is to leaven the outliers, not to achieve a perceived correct sentence in each case. *Conley v. State*, 183 N.E.3d 276, 288 (Ind. 2022). Therefore, “we reserve our 7(B) authority for exceptional cases.” *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019) (per curiam).
- [32] “[S]entencing is principally a discretionary function in which the trial court’s judgment should receive considerable deference.” *Cardwell v. State*, 895 N.E.2d 1219, 1222 (Ind. 2008). “Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and 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). The two prongs of 7(B) review are “separate inquiries to ultimately be balanced in determining whether a sentence is inappropriate.” *Lane v. State*, 232 N.E.3d

119, 126 (Ind. 2024) (quoting *Conner v. State*, 58 N.E.3d 215, 218 (Ind. Ct. App. 2016)). “[T]o the extent the evidence on one prong militates against relief, a claim based on the other prong must be all the stronger to justify relief.” *Id.* at 127.

[33] The question “is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate.” *Helsley v. State*, 43 N.E.3d 225, 228 (Ind. 2015) (quoting *King v. State*, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008)) (emphasis omitted). Whether we regard a sentence as inappropriate “turns on our sense of 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*, 895 N.E.2d at 1224. The defendant bears the burden of persuading us a revised sentence is warranted. *Cramer v. State*, 240 N.E.3d 693, 698 (Ind. 2024).

[34] Stoudimire was found guilty of one Level 1 felony and two Level 4 felonies. A Level 1 felony is punishable by a sentence from twenty to forty years, with an advisory sentence of thirty years. I.C. § 35-50-2-4(b) (2014). A Level 4 felony is punishable by a sentence from two to twelve years, with an advisory sentence of six years. I.C. § 35-50-2-5.5 (2014). Stoudimire’s fifty-five-year aggregate sentence is enhanced, but not the maximum sentence authorized by statute.

[35] Beginning with the nature of his offenses, Stoudimire acknowledges they were “despicable and reprehensible.” *Appellant’s Br.* at 29–30. But he asserts they were accompanied by some restraint, regard, and lack of brutality because he

neither committed violence nor threatened physical violence to the girls. We are not persuaded this renders Stoudimire's sentence inappropriate. Both girls and their four siblings were often in Stoudimire's care. Jam.B. testified Stoudimire molested her more than once, including by sexual intercourse which hurt and made her want to cry. *See Tr. Vol. 2* at 169. Jal.B. testified Stoudimire touched her more than once, although she only testified to one specific incident. While these events occurred, the girls' siblings were in the next room in a small apartment.

[36] Stoudimire's character also does not weigh in favor of revising his sentence. Stoudimire's sister assessed him as "a good man" who had been a blessing in her eyes. *Tr. Vol. 3* at 166. But Stoudimire's criminal history and his actions toward his granddaughters belie that description and reflect poorly on his character. The trial court noted Stoudimire had contact with the juvenile justice system over a course of years, albeit no juvenile adjudications. As an adult, beginning in 1990 when he was twenty years old, he has been convicted of seven misdemeanors and four felonies, including a previous conviction for child molesting. And despite Stoudimire's argument his sentence does not serve the reformatory goal of the criminal system, he has not taken advantage of prior opportunities to reform his conduct. The trial court described the array of rehabilitative efforts offered to Stoudimire, including "short, intermediate, and longer" jail and Department of Correction sentences, release on parole, services through Caring About People, doing community service, and being on unsupervised visitation. *Id.* at 174.

[37] Stoudimire's sentence is not inappropriate in light of his offenses or his character.

Conclusion

[38] The trial court did not abuse its discretion in denying Stoudimire's motion for mistrial. The victims' testimony was not incredibly dubious and was sufficient to support his convictions. And his fifty-five-year sentence is not inappropriate.

[39] Affirmed.

Felix, J., and DeBoer, J., concur.

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