ATTORNEY FOR APPELLANT

David W. Stone IV
Anderson, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Ian McLean
Supervising Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Jennifer Lynn Harris,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

February 23, 2021

Court of Appeals Case No. 20A-CR-847

Appeal from the Madison Circuit Court

The Honorable Angela Warner Sims, Judge

Trial Court Cause No. 48C01-1804-F1-1108

Pyle, Judge.

Statement of the Case

[1] Jennifer Harris ("Harris") appeals her conviction by jury of Level 1 felony neglect of a dependent resulting in death[1] following the death of her eighteen-month-old son, H.H. ("H.H.").[2] She also appeals the forty (40) year sentence imposed thereon. Harris argues that: (1) the trial court abused its discretion in admitting photographic evidence; (2) there is insufficient evidence to support her conviction; (3) the trial court abused its discretion in sentencing her; and (4) her sentence is inappropriate in light of the nature of the offense and her character. Concluding that: (1) the trial court did not abuse its discretion in admitting evidence; (2) there is sufficient evidence to support her conviction; (3) the trial court did not abuse its discretion in sentencing her; and (4) her sentence is not inappropriate, we affirm Harris' conviction and sentence.

[2] We affirm.

Issues

1. Whether the trial court abused its discretion in admitting photographic evidence.

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[1] IND. CODE § 35-46-1-4.

[2] Harris' boyfriend, Dylan Tate ("Tate"), was convicted by a jury of: (1) murder; (2) Level 1 felony child molesting; (3) Level 1 felony neglect of a dependent resulting in death; and (4) Level 6 felony operating a vehicle while intoxicated endangering a person less than eight years old. The trial court sentenced Tate to an aggregate sentence of Life Without Parole plus fifty-two and one-half (52½) years in the Department of Correction. The Indiana Supreme Court affirmed Tate's convictions and sentence. *See Tate v. State*, No. 19S-LW-444, 2021 WL 325975 (Ind. Jan. 28, 2021).

2. Whether there is sufficient evidence to support Harris' conviction for Level 1 felony neglect of a dependent resulting in death.

3. Whether the trial court abused its discretion in sentencing Harris.

4. Whether Harris' forty (40) year sentence is inappropriate.

Facts

[1] The facts most favorable to the verdict reveal that Harris is the mother of H.H., who was born in July 2016 and who was the victim in this case. When H.H. was two months old, Kyle Neal ("Neal"), a female paternal relative, began occasionally caring for the infant. Harris and H.H.'s father ("Father") separated when H.H. was four months old. At that time, Neal, her fiancé, and Neal's fifteen-year-old son, who all lived in Muncie, became more involved in H.H.'s life and began caring for the infant in their home every weekend. H.H.'s weekend visits often turned into four- to five-day visits. On the evenings that H.H. was with Harris, Neal regularly Facetimed with Harris and H.H. to check in on H.H. In addition, H.H. spent most holidays at Neal's home, and it was Neal and her family who taught H.H. to both sit up and walk.

[2] After Harris and Father had separated, Harris and H.H., when he was not staying with the Neal family, lived with Harris' best friend, Bethaney Greenlee ("Greenlee") in Anderson. Harris began dating Tate in May 2017 and soon "shut her friends out of her life[.]" (Tr. Vol. 4 at 88). In June 2017, Harris left H.H. with Neal for three to four weeks while Harris celebrated her birthday.

Harris rarely contacted Neal to check on H.H. during that time. Harris and H.H. subsequently moved in with Tate and his eight-year-old son in Anderson.

[3] On December 14, 2017, a five-foot-tall artificial tabletop Christmas tree fell over on H.H. while he was in his Pack 'N Play. Harris told Neal that the Christmas tree had "knocked [H.H.] on his butt, but it [had]n't hurt him." (Tr. Vol. 4 at 152). Neal had seen the Christmas tree and knew that it was not heavy enough to injure H.H. That same day, Harris took H.H. to an urgent care facility in Anderson, where H.H. was diagnosed with an ear infection and given antibiotics.

[4] Five days later, on December 19, Harris took H.H. to the Community Hospital Emergency Room in Anderson ("the Anderson Hospital ER") because his right eye was swollen and discolored and the top of his head was swollen. Harris told the health care provider that a Christmas tree had fallen on H.H. five days before the visit, and the healthcare provider diagnosed H.H. with minor head trauma.

[5] The following day, December 20, Harris took H.H. back to the Anderson Hospital ER because his forehead and right eye were swollen and he also had a slight bruising to his upper left eyelid. Harris told the emergency room physician's assistant about the Christmas tree incident. The physician's assistant ordered a CAT scan of H.H.'s head. The scan showed no serious head trauma. H.H. demonstrated equal movement of all his extremities, and Harris did not mention that H.H. had been walking with an irregular gait.

[6] Later that day, Harris contacted H.H.'s primary care provider, Nurse Practitioner Lisa Senour-Reboulet ("Senour-Reboulet"), at the St. John's Children's Clinic in Anderson and told her that she had taken H.H. to the Anderson Hospital ER. Harris explained that both of H.H.'s eyes had been swollen shut, his head had been swollen, and he had been diagnosed with an ear infection. Harris was given a December 27 follow-up appointment with Senour-Reboulet.

[7] When Senour-Reboulet walked into the examining room for H.H.'s December 27 appointment, she thought that H.H. "looked bad." (Tr. Vol. 2 at 192). H.H.'s head and forehead were swollen and both of his eyes were bruised. In addition, H.H. was walking with an abnormal gait. Harris told the nurse practitioner that H.H. had just begun exhibiting the abnormal gait. Harris also told the nurse practitioner about the December 14 Christmas tree incident. Harris further explained that the swelling and bruising had not appeared until December 19. A five-day delayed onset of swelling and bruising related to the Christmas tree incident "[d]idn't make sense to" Senour-Reboulet, and she was "concerned that the injuries didn't add up to what the story was." (Tr. Vol. 2 at 194, 195). Based on Senour-Reboulet's concerns about H.H.'s injuries, and suspecting that H.H. was the victim of child abuse, the nurse practitioner asked Harris to take H.H. to the Peyton Manning Children's Hospital Emergency Room at St. Vincent's hospital in Indianapolis ("the Peyton Manning ER"), which has a specialized Child Protection Team ("the Team") that evaluates children for abuse.

[8] That same afternoon, Harris took H.H. to the Peyton Manning ER, where H.H. was examined by Dr. Kelly Slama-McManus ("Dr. Slama-McManus"). Harris and H.H. arrived at the Peyton Manning ER at approximately 2:00 p.m. When Dr. Slama-Harris walked into the examination room, she immediately noticed that H.H. had two black eyes. Harris told Dr. Slama-McManus that, on December 14, Harris had taken H.H. to an after-hours medical facility because he was "fussy and felt warm." (Tr. Vol. 2 at 216). In addition, Harris told Dr. Slama-McManus that H.H. had been diagnosed with an ear infection and had been given oral antibiotics and ear drops because the infection had ruptured his ear drums. Harris further told Dr. Slama-McManus that H.H. had been "walking funny" at that time, and Harris had assumed that the ear infection had "had him off-balance." (Tr. Vol. 2 at 216).

[9] Harris also told Dr. Slama-McManus that she had taken H.H. to the Anderson Hospital ER on December 19 because the top of his head and right eye had both been swollen. Harris speculated that the swelling had been due to the Christmas tree that had fallen on his Pack 'N Play on December 14. In addition, Harris told Dr. Slama-McManus that she had taken H.H. back to the Anderson Hospital ER on December 20 because his right eye had been swollen shut. Harris explained to Dr. Slama-McManus that "she [had been] told that the black and blue eyes might be a reaction to the ear drops." (Tr. Vol. 2 at 227). Dr. Slama-McManus responded that "[t]here [was] no way in hell that [was] possible[.] You don't get black and blue eyes from drops going into your ears." (Tr. Vol. 2 at 226).

[10] After discussing H.H.'s recent medical history with Harris, Dr. Slama-McManus examined H.H. In addition to the two black eyes, Dr. Slama-McManus noticed that H.H. had bruises on the inside of his ear, which Dr. Slama-McManus recognized as "an obvious ear pull." (Tr. Vol. 2 at 250). Dr. Slama-McManus also ordered x-rays of H.H.'s leg because of his irregular gait. The x-rays revealed a spiral fracture in his right leg, which already had a callus formation. Based on this callus formation, Dr. Slama-McManus speculated that the fracture was in the process of healing and had happened within the past week.

[11] Because of the progression of H.H.'s injuries, including the two black eyes, internal ear bruises, and a broken leg, "it was common sense [to Dr. Slama-McManus] that [H.H.] was being abused." (Tr. Vol. 2 at 238). Dr. Slama-McManus told Harris that she was "very concerned with [H.H.'s] injuries" and that she was calling the Team, which is composed of a nurse practitioner and physician, and the Department of Child Services ("DCS") to investigate child abuse. (Tr. Vol. 2 at 239). Harris listened but showed no shock. Dr. Slama-McManus was also so concerned about H.H. that she wanted the toddler admitted to the hospital for further evaluation.

[12] The Team's nurse practitioner met with Harris, recorded a detailed medical history of H.H., and took photographs of H.H.'s injuries. Harris told the nurse practitioner that a Christmas tree had fallen on H.H. on December 14 and that the tree could have hit H.H.'s head and might have caused H.H. to twist his leg. The Team noticed and was concerned that Harris had given medical providers

inconsistent details about the Christmas tree incident and H.H.'s subsequent injuries.

[13] Harris also told the Team's nurse practitioner that H.H., who was very fair skinned, had a history of facial petechiae, which had been caused by constipation. However, the Team's physician knew that constipation was not a plausible reason for facial petechiae. Rather, facial petechiae are caused by choking-type injuries. Although the Team documented a "constellation of injuries" to H.H. and was extremely concerned that H.H. was being abused, the Team disagreed with Dr. Slama-McManus' recommendation that H.H. be admitted to the hospital. (Tr. Vol. 3 at 151). Dr. Slama-McManus explained the disagreement as follows:

> What they disagreed with me on was need for admission, not need for care or further investigation. I wanted the child admitted to the hospital. To be admitted to the hospital, we must be treating something. We are not a safe haven. We are a medical facility. So, they needed a reason to admit the child to the hospital[.]

(Tr. Vol. 3 at 13-14).

[14] While Harris and H.H. were at the Peyton Manning ER, Harris contacted Neal and asked her to come to the hospital. When Neal arrived at the Peyton Manning ER, Neal heard Dr. Slama-McManus "ma[k]e it clear" to Harris that the doctor believed that H.H. was the victim of child abuse. (Tr. Vol. 4 at 156). H.H. was discharged from the Peyton Manning ER at 2:00 a.m., twelve hours after he had arrived at the hospital.

[15] Following H.H.'s discharge from the Peyton Manning ER, H.H. continued to spend three- to five-days each week with Neal and her family. While H.H. was visiting Neal's home in January 2018, Harris contacted Neal and asked her to keep H.H. because Harris and Tate were "fighting again . . . [and] . . . he was kicking her out . . . and . . . he was still mad over the broken leg incident." (Tr. Vol. 4 at 157). Harris packed up H.H.'s clothing and toys, and Neal's fiancé picked the items up at Harris' home and took them to Neal's home. Harris did not call to check on H.H. while he was at Neal's house, and Neal had no idea where Harris was staying. Neal believed that Harris intended to leave H.H. with Neal's family because this was the first time that Harris had sent all of H.H.'s clothing and toys to Neal's house. Neal and her fiancé discussed taking legal action to obtain custody of H.H.

[16] However, Harris eventually contacted Neal in February 2018 and told her that she had moved back in with Tate and that she wanted H.H. to return to her home. Neal did not think returning H.H. to Harris was a good idea because Harris and Tate "were just volatile, always fighting[]" and H.H. "didn't need to be around it[.]" (Tr. Vol. 4 at 159). Neal, however, returned H.H. to Harris.

[17] In mid-February 2018, Harris took H.H. to Greenlee's mother's house and asked to borrow Greenlee's telephone. Harris telephoned Tate and explained that H.H. had locked her out of her cell phone and that was why she had been unable to contact Tate and Tate had been unable to contact her. Greenlee could hear Tate screaming at Harris over the telephone, and he sounded "irate." (Tr. Vol. 4 at 104).

[18] Neal contacted Harris and H.H. via Facetime on Thursday evening, February 22, 2018. Harris spoke with Neal but did not put H.H. on Facetime as she usually did, so Neal was unable to see H.H. Harris told Neal that she would transport H.H. to Neal's home that weekend. Neal thought that was odd because Harris had never transported H.H. to Neal's home. Rather, Neal's fiancé had always picked H.H. up at Harris's home.

[19] At approximately 4:20 a.m. on Friday, February 23, 2018, a nurse at the Anderson Hospital ER noticed Tate banging on the ambulance bay doors. The nurse opened the doors and saw that a shirtless and shoeless Tate was carrying a lifeless H.H., who was wearing only a diaper. Tate told the nurse that he had woken up to find H.H. struggling to breathe and had decided to drive H.H. to the emergency room. However, Tate explained that on his way to the emergency room, he had had a car accident and had hit a utility pole about fifteen to twenty minutes before he and H.H. had arrived at the emergency room. According to Tate, H.H.'s injuries had resulted from the car accident.[3]

[20] Tate's explanation for H.H.'s injuries "did not make sense" to the emergency room medical staff. (Tr. Vol. 1 at 227). First, H.H.'s temperature was ninety-two degrees, and a nurse explained that a person's temperature does not drop four degrees in fifteen to twenty minutes. In addition, hospital staff noticed that H.H. was "covered in bruises from head to toe." (Tr. Vol. 2 at 13). The bruises

[3] At Harris' trial, the State presented evidence that Tate had purposefully driven his car into the utility pole in an attempt to cover up H.H.'s abuse.

were different colors and at different stages of healing. The emergency room physician noticed that H.H.'s head was swollen, he had cigarette burns on his chest and back, and blunt trauma to his groin. The physician also noticed that H.H. had an "insertion injury, blunt injury" to his anus. (Tr. Vol. 2 at 128). CT scans revealed that H.H. had bleeding around his brain, which is typically the result of blunt force trauma. After the emergency room physician had evaluated H.H.'s medical condition, the physician concluded that H.H.'s injuries were not consistent with a car accident. An emergency room nurse took photographs of H.H.'s injuries.

[21] Three emergency room nurses, three technicians, and the physician all worked together to resuscitate H.H. When the emergency room doctor attempted to intubate H.H. by placing a tube into H.H.'s trachea so that he could attach H.H. to a ventilator, the physician found a paper towel "shoved pretty far down . . . behind the base of [H.H.'s] tongue." (Tr. Vol. 2 at 132-33). After the physician had removed the paper towel, the physician was able to place H.H. on a ventilator. The emergency room staff was also able to get H.H.'s heart beating after performing CPR for fifteen to twenty minutes.

[22] While the emergency room team was attempting to resuscitate H.H., Tate fell asleep on a gurney in the hallway of the emergency room. At the same time, an Anderson Police Department Officer was dispatched to the scene of Tate's car accident and then to Harris' home. When the officer arrived at Harris' home, the officer noticed that Harris was standing outside. The officer advised Harris that Tate and H.H. had been involved in a car accident. Harris remained calm

throughout the encounter and never asked about H.H. The officer drove Harris to the Anderson Police Department where she was questioned by Anderson Police Department Detective Clifford Cole ("Detective Cole").

[23] Harris told Detective Cole that a Christmas tree had fallen on H.H. in January 2018. According to Harris, the Christmas tree had broken the toddler's leg, and Harris had taken him to the Peyton Manning ER. Harris further told Detective Cole that she and Tate had purchased a fifth of Crown Royal Apple Flavored Whisky the previous evening and that Tate had had two shots of the whisky at 11:00 p.m. before they had gone to bed. Harris denied using any alcohol or drugs that night because she thought that she might have been pregnant. Harris also told Detective Cole that she had woken up at 5:00 that morning and had noticed that Tate had not been in bed. Harris further told Detective Cole that she had gone into the living room and had noticed that it was in disarray as if Tate had been looking for his car keys. In addition, H.H. was not in his Pack 'N Play. According to Harris, she had just stepped outside when a police officer had arrived at her home and told her about Tate's car accident. After Detective Cole had finished questioning Harris, the detective offered to take her to the hospital to see H.H. Harris, however, wanted to smoke a cigarette first.

[24] When Detective Cole dropped Harris off at the Anderson Hospital ER, the detective saw Tate, whom he knew, on a gurney in the hallway. Tate was "frantic" and told Detective Cole that he wanted to talk to him. (Tr. Vol. 4 at 123). Detective Cole arranged a blood draw on Tate, which revealed that Tate's BAC was .202. Tate's blood test results were also positive for

Oxycodone. Following the blood draw, Tate was transported to the Anderson Police Department, where Detective Cole interviewed him. Tate gave the detective permission to search Tate's home.

[25] In the meantime, after Harris had arrived at the Anderson hospital, she had stood away from H.H.'s bed and had put her hands over her face. Harris did not ask the nurses or doctor about H.H.'s condition or attempt to comfort her son. The emergency room physician noticed that Harris did not seem concerned or upset about the circumstances. Harris told Greenlee, who had met Harris at the hospital, that "the police [had] said that [H.H.'s] injuries didn't match up with a car accident." (Tr. Vol. 4 at 91).

[26] After H.H.'s heart had begun beating, and he had been placed on a ventilator, the emergency room physician made arrangements to transfer H.H. to the trauma center at Riley Children's Hospital ("Riley") in Indianapolis. Although the physician wanted H.H. to be transported to Riley by helicopter, the weather was too bad. Instead, the physician arranged for an ambulance to transport H.H. to Riley. Multiple emergency room staff members asked Harris if she wanted to ride in the ambulance to Riley with H.H.; however, Harris declined to do so. Instead, she asked Greenlee to take her home to get her phone charger before driving her to Indianapolis.

[27] When Greenlee and Harris arrived at Harris' home, Greenlee knew as soon as she walked through the front door that there had not been "a car accident and that [Tate] had hurt [H.H.]" (Tr. Vol. 4 at 93). Specifically, Greenlee noticed

that the living room was in disarray and that there was a wet blanket with blood on it in the Pack 'N Play where H.H. slept. Greenlee also noticed H.H.'s wet onesie and pants behind a flipped couch cushion as well as an empty water jug sitting on the floor. Greenlee pointed at the water jug and told Harris that Tate had "tried to clean . . . [H.H.] up." (Tr. Vol. 4 at 96). Greenlee instructed Harris to look for "a towel that maybe [Tate][had] tried to dry [H.H.] off with after, you know, he [had] put the water on him." (Tr. Vol. 4 at 96). Harris went into the bathroom and found a wet towel with blood on it on the floor. Harris also found a paper towel with blood on it in the hallway between the bathroom and the kitchen. Greenlee further found a bloody diaper outside by the garbage cans.

[28] Harris and Greenlee put the wet blanket, H.H.'s wet clothes, the wet towel with blood on it, the paper towel with blood on it, and the bloody diaper in a box and placed the box in the trunk of Greenlee's car. After Greenlee and Harris had gotten into the car and were on their way to Riley, Greenlee told Harris to call the police and tell them what they had found in the house and that the items were in a box in Greenlee's trunk. Harris called the Anderson Police Department and then told Greenlee that a police officer would collect the items at Riley. However, when Detective Cole learned from another officer that Harris had taken the items of evidence, the detective telephoned Harris and told her that the items "need[ed] to be brought back [t]here immediately." (Tr. Vol. 4 at 126). Harris told the officer she would bring him the items but did not do so until two days later.

[29] Later that morning, an Anderson Police Department Detective supervised a search of Tate's residence pursuant to Tate's consent. Police officers collected evidence and took photographs inside the house. One of the officers noticed a bottle of Crown Royal Apple Flavored Whisky. The bottle was "fairly empty[,] less than a third of what the bottle would contain." (Tr. Vol. 2 at 81).

[30] When H.H. arrived at Riley at approximately 9:00 a.m. on February 23, the attending physician in the pediatric intensive care unit noticed that H.H. was "bruised from head to toe[,]" and "[i]t looked like he had been beaten." (Tr. Vol. 2 at 142). Dr. Shannon Thompson ("Dr. Thompson"), a member of the Child Protection Team at Riley, was called in to examine H.H. During her examination of H.H., Dr. Thompson documented the following injuries: (1) multiple bruises and a pattern shaped laceration on his forehead; (2) bruising on the bridge of his nose; (3) diffuse bruising under and down the side of his scalp and behind his ear; (4) bleeding under his scalp on top of his skull; (5) multiple bruises resulting from multiple areas of impact on the right side of his head, including his forehead and around his eye; (6) multiple areas of bruising on the back of his head; (7) too many bruises and impact injuries to count on his torso; (8) a cigarette burn on his back; (9) bruises on his lower back; (10) a bite mark and multiple bruises on his left arm, including three separate bruises on his elbow; (11) traumatic injury to his groin area, including small individual bruises overlaying deeper bruises; (12) bruises and abrasions, including a possible bite mark, to his left thigh; (13) bruises on the top, bottom side and back of his feet; and (14) a laceration to his scrotum. According to Dr. Thompson, H.H. also

had: (1) bleeding under his skull on both sides of his brain caused by multiple significant impacts to his brain; (2) bleeding out the back of both eyes; (3) bleeding on his optic nerve; (4) lacerations to his liver; (5) bleeding in his large and small intestines; (6) bleeding in his abdomen caused by multiple areas of blunt force trauma; (7) and a rectal tear and bruising caused by a penetrating trauma. During Dr. Thompson's examination of H.H., a medical photographer took photographs of H.H.'s injuries.

[31] When Neal returned home from work on February 23, she had a message from Harris that H.H. was at Riley. Neal left Muncie immediately for the Indianapolis hospital. When Neal arrived at Riley, Harris told Neal that Harris had not ridden in the ambulance with H.H. to Riley because she had wanted to get some things from her house. Neal responded that that was "complete bullshit." (Tr. Vol. 4 at 168). Neal asked Harris, "[w]hat [was] more important than going with [H.H.]? What was in that house that was more important than worrying about your son?" (Tr. Vol. 4 at 168).

[32] When Neal asked Harris what had happened to H.H., Harris responded that she "had no idea." (Tr. Vol. 4 at 169). Harris explained to Neal that she had slept through the night and had not woken up until the police had arrived the following morning. However, Neal had noticed that Harris had been "liking and commenting on social media . . . throughout the night where she was supposed to [have been] asleep." (Tr. Vol. 5 at 174, 175). Harris told Neal, "[j]ust let [H.H.] be okay, and I'll sign him over to ya." (Tr. Vol. 4 at 172).

[33] Neal stayed at the hospital with H.H. "most of the time" while he was on the ventilator. (Tr. Vol. 4 at 170). Harris frequently "disappear[ed]" and, when she was at the hospital, she was texting on her telephone. (Tr. Vol. 4 at 170). On February 25, 2018, a Riley physician conducted "brain death protocol tests" and determined that H.H. was brain dead. (Tr. Vol. 2 at 150). When it was time to turn off the ventilator, Neal was with H.H. but Harris could not be found. The physicians asked two or three times where Harris was and asked Neal to find Harris so she could be there with H.H. when they turned off the ventilator. Neal, however, refused to leave H.H. Shortly after the physicians removed H.H. from the ventilator, the toddler died.

[34] A Marion County forensic pathologist performed H.H.'s autopsy on February 26, 2018. A deputy coroner took photographs during the autopsy. The autopsy report reveals that H.H. had: (1) twenty-eight blunt force traumatic injuries to his head; (2) seven blunt force traumatic injuries to his neck; (3) two blunt-force traumatic injuries to his chest and back; (4) four blunt force traumatic injuries to his abdomen; (5) four blunt force traumatic injuries to his pelvis; and (6) eight blunt force traumatic injuries to his extremities. The forensic pathologist determined that the cause of H.H.'s death was multiple blunt force traumatic injuries, and the manner of his death was a homicide.

[35] Detective Cole interviewed Harris again on February 28, 2018. During that interview, Harris told the detective that she had given H.H. a bath on Thursday evening, February 22, and that H.H. had had one bruise on his forehead and one bruise on his leg at that time. Harris also told Detective Cole that she had

taken an Oxycodone that a dentist had prescribed for a bad tooth and had smoked marijuana before going to bed that night. In addition, Harris told the detective that she was aware that Tate had been both taking and selling drugs around the time of H.H.'s death, but she did not know where Tate had gotten the drugs. According to Harris, Tate had also "been getting angrier and angrier" around that same time. (Tr. Vol. 4 at 130).

[36] Detective Cole interviewed Harris for a third time in April 2018. Following the interview, Harris was arrested and charged with Level 1 felony neglect of a dependent resulting in death. In September 2019, the State added a charge of Level 5 felony neglect of a dependent resulting in serious bodily injury.

[37] Harris' six-day trial began at the end of January 2020, and the jury heard evidence of the facts as set forth above. In addition, during the testimony of Dr. Slama-McManus, the State offered into evidence ten photographs of H.H. taken at the Peyton Manning ER on December 27, 2017. (State's Exhibits 183-192, Ex. Vol. 1 at 220-229). The photographs showed H.H.'s two black eyes and his ears. When the State offered the photographs into evidence, Harris stated that she had "no objection." (Tr. Vol. 2 at 242).

[38] During the testimony of an Anderson Hospital ER nurse about H.H.'s condition when he arrived at the hospital with Tate in the early morning hours of February 23, 2018, the State offered into evidence fourteen photographs of H.H. taken at the hospital. (State's Exhibits 19-32, Ex. Vol. 1. at 31-44). The photographs showed a battered and bruised H.H. hooked up to life-saving

equipment in the ER. When the State offered these photographs into evidence, Harris stated that she had "no objection." (Tr. Vol. 1 at 235).

[39] Further, during the testimony of another Anderson Hospital ER nurse about H.H.'s condition when he arrived at the hospital, the State offered into evidence a packet of nine photographs that the nurse had taken of H.H.'s injuries. (State's Exhibit 40, Ex. Vol. 1 at 52-61). The photographs are close-up images of H.H.'s specific injuries, including: (1) H.H.'s bruised head, face, torso, groin, and feet; (2) the cigarette burn on H.H.'s back; (3) the laceration on H.H.'s scrotum; and (4) the penetrating injury to H.H.'s anus. The nurse took the photographs as part of hospital protocol to go into H.H.'s medical record. Not only did the nurse take the photographs, but she also documented H.H.'s injuries in his medical record and testified about them at trial. When the State offered these photographs into evidence, Harris objected. The trial court overruled Harris' objection and admitted the photographs into evidence.

[40] In addition, during the testimony of a Riley pediatrician, the State offered into evidence photographs of H.H. and his injuries when he had arrived at Riley on the morning of February 23, 2018. (State's Exhibits 193-216, Ex. Vol. 1 at 230-250 and Ex. Vol. 2 at 2-4). When the State offered these photographs into evidence, Harris stated that she had no objection.

[41] During the testimony of the forensic pathologist who had conducted H.H.'s autopsy, the State offered into evidence twenty-six autopsy photographs of H.H. (State's Exhibits 217-243, Ex. Vol. 2 at 5-31). All of the photographs

except State's Exhibit 243 show H.H.'s external injuries before the pathologist began the autopsy. State's Exhibit 243 is a photograph of H.H.'s torn liver, which was removed during the autopsy. The forensic pathologist testified about H.H.'s injuries, including the torn liver. When the State offered these photographs into evidence, Harris objected. The trial court overruled the objection and admitted the photographs into evidence.

[42] Also at trial, when the State called Tate to testify, Tate refused to answer any of the State's questions. The trial court explained to Tate that he had no Fifth Amendment right to not testify because he had already been convicted. The trial court ordered Tate to answer the State's questions or be held in contempt if he refused to do so. When Tate continued to refuse to answer any of the State's questions, the trial court held a contempt hearing, found Tate to be in contempt of court, and sentenced him to an additional six months. Harris did not testify.

[43] During closing argument, the State argued that Harris had been "put on notice [in December 2017] that there was an abuser in the home[.]" (Tr. Vol. 4 at 206). The State specifically argued as follows:

> December twenty-seventh, he goes to Peyton Manning Children's Hospital[.] Dr. Slama-McManus, she was the one (l) - she was the ER doctor that saw him, the one (l) that made no bones about it. She knew what was going on and it was bad. And she, she told everybody she could that this was child abuse. She made no - she made it clear to [Harris], her friends, and everybody that was there, that this was child abuse[.]

(Tr. Vol. 4 at 210-11).

[44] After hearing the witnesses' testimony, viewing the exhibits, and listening to the parties' closing arguments and the trial court's instructions, the jury convicted Harris of Level 1 felony neglect of a dependent resulting in death. The jury acquitted Harris of Level 5 felony neglect of a dependent resulting in serious bodily injury.

[45] At the end of the March 2020 sentencing hearing, the trial court sentenced Harris as follows:

> The court having reviewed the presentence investigation report and the court also taking into consideration evidence and argument submitted by counsel here today, the court also taking note and notice of its own file here in this case and the evidence that was presented to the jury under this cause makes the following findings and statements with respect to sentencing. The court will start with aggravation and mitigation factors that the court considers in determining an appropriate sentence. The court does find there is aggravation. One (1), is that [Harris] does have a history of criminal behavior and/or delinquent behavior as indicated in the presentence investigation report, the prior convictions for illegal consumption of alcohol as well as a conviction for possession of a controlled substance. Not only are those two (2) prior contacts convictions that [Harris] has in the criminal justice system that occurred before these events here that bring us before the court, the court agrees with the State as well that these were two (2) major factors that were discussed and brought out in evidence in this case involving the night these events took place, that there was consumption of alcohol as well as illicit and illegal drugs being consumed and used in the home. And, by [Harris'] own statement, she, in her PSI, talks about how she had smoked, I think, part of a joint that night of marijuana before she went to bed. The court also finds as aggravation that the harm, injury and loss and the facts and circumstances of this

case were greater than would have been required to prove the neglect as a dependent as a Level I felony. As the State indicated in their argument and the court would agree that the harm is really beyond one's imagination of the evidence that we saw in this case. The court initially was prepared to say too many injuries to count, obviously, the State went back through the autopsy and made note of those ah, fifty—two (52) injuries that occurred to this eighteen (18) month old baby. Again, the words "tortured" and "beaten", again, don't really even describe what the pictures and what the other evidence that the court heard from medical experts in this case. But, again, as the State listed, the types of injuries, again, were over of a period of time that were a continuum of the torture that took place, the biting, the evidence of the shaking, the burns that were observed by medical professionals in this case as well as just the number of bruises, I mean, literally head to toe as was evidenced by the pictures as well as the doctors' testimony of the injuries this child sustained. The court [will] also take note, as the State indicated, the age of the child. While certainly the element is under the age of fourteen (14), we were, in this case, dealt with an absolutely defenseless human being, again, eighteen (l8) months old, completely dependent um, upon others to take care of him and to protect him. So, the court does finds that to be further aggravation in this particular case. The court also finds as an aggravation, is the position of trust. Um, you were [H.H.'s] mother, I can't, again, think of anyone that he should have trusted more than you and should have depended on more than you, and you betrayed that. You let him down and you didn't live up to those responsibilities that we expected of parents in our society. You had the care, custody and control of him and that was defied, and so, the court does find that to be further aggravation. You weren't just a caretaker, you weren't a stepparent, you were his mother. And so, the court does find that to be further aggravation in this case. Now, the court, based on the record before it, does not find mitigation or that any mitigation the court would give any significant, if any, weight to. As stated by others in this court, the court has really struggled to

find words to describe the horrific facts of this case and really difficult still to find words that could describe this to anyone other than the people that actually were involved in the case. I think, as Chief Deputy Koester says, that watched the evidence, that watched the jurors um, and saw the evidence in this case, and even at that, still difficult at times to really comprehend what took place in that house on that night. The court struggles to find any other responsibility that we as human beings place a higher level on in our society than that of a parent, and you failed. You failed at the expense of your son's life. And again, while others want to continue [to] support you and care for you to really blame this on somebody else and Mr. Tate and the actions that ah, certainly, he's been found guilty of. But, the court listened to the evidence in this case too and you were given so many warnings before that night that you were given opportunity to do something else to protect him. Whether you cared to protect yourself is a different issue, but you owed it to that child to protect him and you didn't. There's no way that you can convince anyone that given the testimony of the medical evidence that was given to you and presented to you the times that you were at the hospital in December and then again in early January, that you couldn't have under[stood] that something was going on, and if it wasn't you, then who was it? The only thing that the court can conclude is that that child wasn't your highest priority and you showed that through your actions and you continued to show that through your actions up until the night of this event. The law in Indiana repeatedly supports that maximum sentences should be held for the worst of the worst offenders, and the court's not really sure that it's aware of a worst of a worst offender than you that sit before me today. And because of that, the court believes, based on the aggravators, given the particular facts and circumstances of this case that a maximum sentence is absolutely warranted under these circumstances and the court sentences [Harris], under Count I: Neglect of a Dependent Resulting in Death, to forty (40) years at the Indiana Department of Correction[]. The court orders that all

forty (40) years be executed and served in the Department of Correction[].

(Tr. Vol. 5 at 54-58).

[46] Harris now appeals her conviction and sentence.

Decision

[47] Harris argues that: (1) the trial court abused its discretion in admitting photographic evidence; (2) there is insufficient evidence to support her conviction; (3) the trial court abused its discretion in sentencing her; and (4) her sentence is inappropriate. We address each of her contentions in turn.

1. Admission of Photographic Evidence

[48] Harris first argues that the trial court abused its discretion in admitting photographic evidence. The admission of photograph evidence is within the sound discretion of the trial court, and we will reverse only for an abuse of that discretion. *Corbett v. State*, 764 N.E.2d 622, 627 (Ind. 2002). A trial court abuses its discretion if its decision is clearly against the logic and the effect of the facts and circumstances before the court or if the court has misinterpreted the law. *Rogers v. State*, 897 N.E.2d 955, 959 (Ind. Ct. App. 2008), *trans. denied*.

[49] Harris argues that the trial court abused its discretion when it admitted the photographs that she objected to at trial of H.H. and his injuries. Specifically, Harris contends that the trial court abused its discretion when it admitted State's Exhibit 40 and State's Exhibits 217-243. State's Exhibit 40 includes nine

photographs taken by a nurse at the Anderson Hospital ER on February 23, 2018. The photographs show close-up images of H.H.'s specific injuries, including photographs of: (1) H.H.'s bruised head, face, torso, groin, and feet; (2) the cigarette burn on H.H.'s back; (3) the laceration on H.H.'s scrotum; and (4) the penetrating injury to H.H.'s anus. State's Exhibits 217-243 include autopsy photographs. All of the photographs except State's Exhibit 243 show H.H.'s external injuries before the pathologist began the autopsy. State's Exhibit 243 is a photograph of H.H.'s torn liver, which was removed during the autopsy.

[50] Relevant evidence, including photographs, may be excluded only if its probative value is substantially outweighed by the danger of unfair prejudice. Evidence Rule 403. Even gory or revolting photographs may be admitted if they are relevant to some material issue or show scenes that a witness could describe orally. *Jackson v. State*, 597 N.E.2d 950, 963 (Ind. 1992). Photographs that depict injuries to a victim are generally relevant and admissible. *Custis v. State*, 793 N.E.2d 1220, 1224 (Ind. Ct. App. 2003), *trans. denied*. However, when autopsy photographs show the body in an altered state, a concern may arise that the photographs render the defendant responsible, in the minds of the jurors, for the cuts, incisions, and indignity of an autopsy. *Id*. at 1225.

[51] Regarding State's Exhibit 40, we note that those nine photographs were admitted during the testimony of a nurse who took the photographs as part of hospital protocol to go into H.H.'s medical record. Not only did the nurse take the photographs, but she also documented H.H.'s injuries in his medical record.

Additionally, the nurse testified about each of H.H.'s injuries that are depicted the photographs. Similarly, the photographs in State's Exhibits 217-243 were admitting during the testimony of the forensic pathologist who conducted H.H.'s autopsy. The forensic pathologist testified about the injuries that are depicted in the photographs and pointed out the laceration of H.H.'s liver. None of the autopsy photographs show H.H.'s body in an altered state. Although the photographs could be considered gruesome because they depicted the extreme and unfathomable injuries perpetrated against a helpless toddler, the photographs are relevant to show the extent and duration of H.H.'s injuries that the witnesses had orally described. The trial court did not abuse its discretion in admitting these photographs into evidence. *See Jackson*, 597 N.E.2d at 963.

2. Sufficiency of the Evidence

[52] Harris also argues that there is insufficient evidence to support her conviction for Level 1 felony neglect of a dependent resulting in death. Our standard of review for sufficiency of the evidence claims is well-settled. We consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not reweigh the evidence or judge witness credibility. *Id.* We will affirm the conviction unless no reasonable fact finder could find the elements of the crime proven beyond a reasonable doubt. *Id.* The evidence is sufficient if an inference may be reasonably drawn from it to support the verdict. *Id.* at 147.

[53] The version of INDIANA CODE § 35-46-1-4 in effect at the time that the crime was committed and that Harris was charged provides, in relevant part, as follows:

> (a) A person having the care of a dependent . . . who knowingly or intentionally:
>
> > (1) places the dependent in a situation that endangers the dependent's life or health;
> >
> > * * * * *
>
> commits neglect of a dependent, a Level 6 felony.
>
> (b) However, the offense is:
>
> * * * * *
>
> > (3) a Level 1 felony if it is committed under subsection (a)(1) . . . by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age[.]

[54] Harris' sole argument is that the State failed to establish beyond a reasonable doubt that she *knowingly* placed H.H. in a dangerous situation that endangered his life. INDIANA CODE § 35-41-2-2(b) provides that "[a] person engages in conduct 'knowingly' if, when [s]he engages in the conduct, [s]he is aware of a high probability that [s]he is doing so." The Indiana Supreme Court has further explained that "knowingly" within the context of the child neglect statute "is that level where the accused must have been subjectively aware of a high probability that [s]he placed the dependent in a dangerous situation." *Armour v. State*, 479 N.E.2d 1294, 1297 (Ind. 1985). *See also Lindhorst v. State*, 90 N.E.3d

695, 701 (Ind. Ct. App. 2017). Because such a finding requires resort to inferential reasoning to ascertain the defendant's mental state, we must look to all the surrounding circumstances of a case to determine if a guilty verdict is proper. *Burden v. State*, 92 N.E.3d 671, 675 (Ind. Ct. App. 2018).

[55] Here, our review of the evidence reveals that, in December 2017, Harris twice took H.H. to the Anderson Hospital ER because of swelling injuries to his head and face. At the end of December 2017, H.H.'s primary care provider suspected that H.H. was the victim of child abuse and referred him to the Peyton Manning ER, which has a Team to investigate such abuse. The Peyton Manning ER physician, Dr. Slama-McManus, clearly told Harris that H.H., who had two black eyes, an internal ear injury, and a broken leg, was being abused. Dr. Slama-McManus was so concerned about H.H.'s injuries that she wanted him admitted to the hospital that day. In addition, Harris knew that Tate was volatile. He kicked her out of the house in January 2018 because, as Harris told Neal, "he was still angry over the broken leg incident." (Tr. Vol. 4 at 157). At that time, Harris sent H.H. to Neal's home. However, a few weeks later, Harris had moved back in with Tate and wanted H.H. to return home. Harris also knew that Tate was both taking and selling drugs and had, as Harris told Detective Cole, "been getting angrier and angrier" around the time that he brutally beat H.H. (Tr. Vol. 4 at 130). This evidence, which is sufficient to establish that Harris knowingly placed H.H. in a dangerous situation, is sufficient to support Harris' Level 1 felony neglect of a dependent resulting in death conviction.

3. Abuse of Discretion in Sentencing

[56] Harris further argues that the trial court abused its discretion in sentencing her. Sentencing decisions rest within the sound discretion of the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). So long as the sentence is in the statutory range, it is subject to review only for an abuse of discretion. *Id.* 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.

[57] Here, Harris argues that the trial court abused its discretion by entering a sentencing statement that includes several improper aggravating factors that are unsupported by the record. We address each of those challenged factors in turn.

[58] Harris first argues that the trial court abused its discretion in considering her criminal history to be an aggravating factor. Harris specifically argues that her two misdemeanor convictions "bear no similarity in nature or seriousness to the conviction for death of a dependent." (Harris' Br. 24). However, INDIANA

CODE § 35-38-1-7.1(a) provides that "[i]n determining what sentence to impose for a crime, the court may consider the following aggravating circumstances: . . . (2) The person has a history of criminal or delinquent behavior." At sentencing, the significance of a criminal history varies based on the gravity, nature and number of prior offenses as they relate to the current offense. *McElfresh v. State*, 51 N.E.3d 103, 112 (Ind. 2016). Thus, the weight of criminal history may vary, but consideration of it is not an abuse of discretion. *Id*. The trial court did not abuse its discretion considering Harris' criminal history to be an aggravating factor.

[59] Harris next argues that the trial court abused its discretion in considering H.H.'s young age to be an aggravating factor because "[b]eing under 14 is an element of the offense." (Harris' Br. 26). Generally, where the age of the victim is a material element of the offense, the age of the victim may not be used as an aggravating factor. *Hudson v. State*, 135 N.E.3d 973, 979 (Ind. Ct. App. 2019). However, the trial court may properly consider the particularized circumstances of the material elements of the crime to be an aggravating factor. *Id.* In this regard, this Court has held that a trial court may properly consider the victim's age as an aggravating factor where "the youth of the victim is extreme." *Reyes v. State*, 909 N.E.2d 1124, 1128 (Ind. Ct. App. 2009). In addition, the Indiana Supreme Court has held that "[t]he younger the victim, the more culpable the defendant's conduct." *Hamilton v. State*, 955 N.E.2d 723, 727 (Ind. 2011). Here, the trial court specifically noted that eighteen-month-old H.H. "was an absolutely defenseless human being . . . completely dependent . . . upon others

to take care of him and protect him." (Tr. Vol. 5 at 56). Because the trial court found that H.H.'s tender age was a part of the particularized circumstances of the case, the trial court did not abuse its discretion in identifying this aggravating factor. *See Hudson*, 135 N.E.2d at 980 (holding that the trial court did not abuse its discretion by considering the victim's tender age of twenty-three-months to be an aggravating factor).

[60] Harris further argues that the trial court abused its discretion in considering the nature of H.H.'s abuse to be an aggravating factor. Harris specifically argues that "[t]he brutality of the actions of Tate are not a proper basis for giving [her] an enhanced sentence." (Harris' Br. 27). However, Harris was convicted of placing H.H. in a dangerous situation that led to his death. *See* I.C § 35-46-1-4. The nature and particularized circumstances surrounding the offense is a proper aggravating factor. *Caraway v. State*, 959 N.E.2d 847, 850 (Ind. Ct. App. 2011), *trans. denied*. Here, the trial court stated that the harm in this case was "really beyond one's imagination[.]" (Tr. Vol. 5 at 55). The trial court then specified that eighteen-month-old H.H. had fifty-two (52) injuries and that those injuries occurred "over a period of time that were a continuum of the torture that took place, the biting, the evidence of the shaking, the burns . . . as well as just the number of bruises . . . literally head to toe as was evidenced by the pictures as well as the doctors' testimony." (Tr. Vol. 5 at 56). The trial court did not abuse its discretion in considering the nature of H.H.'s abuse to be an aggravating factor.

[61] Harris also argues that the trial court abused its discretion in considering the "alcohol and drug abuse on [the] night of [H.H.'s] death" as an aggravating factor. (Harris' Br. 26). According to Harris, there was no evidence that she had drunk alcohol that night and she had explained that she had taken an Oxycodone, which her dentist had prescribed for a bad tooth. In its oral sentencing order, the trial court found "that there was consumption of alcohol as well as illicit and illegal drugs being consumed in the home." (Tr. Vol. 5 at 55). Our review of the evidence reveals that Tate apparently drank two-thirds of a fifth of Crown Royal Apple Flavored Whisky and took Oxycodone the night that he fatally beat H.H. There was no evidence that Tate had been prescribed the Oxycodone. In addition, Harris had told Detective Cole that Tate was taking and dealing drugs at the time of H.H.'s death. The use of alcohol and drugs in the home is part of the nature and particularized circumstances of the offense, which is a valid aggravating factor. *See Caraway*, 959 N.E.2d at 850. The trial court did not abuse its discretion.[4]

[4] In a one-sentence argument that is unsupported by authority, Harris also argues that the trial court abused its discretion in considering as an aggravating factor that she had been given "warnings of danger." (Harris' Br. 27). Harris has waived appellate review of this issue. *See Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005) ("Generally, a party waives any issue raised on appeal where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record."), *trans. denied*. Waiver notwithstanding, we find no error. Our review of the trial court's oral sentencing statement reveals that the trial court did not consider the warnings that Harris had been given as an independent aggravating factor. Rather, the trial court mentioned the warnings when discussing the aggravating factor that Harris had violated her position of trust as H.H.'s mother. This Court has previously explained that "[t]here is no greater position of trust than that of a parent to h[er] young child," and that "[a]busing a position of trust is, by itself, a valid aggravator[.]" *Hart v. State*, 829 N.E.2d 541, 544 (Ind. Ct. App. 2005).

[62] We further note that, even if the trial court had erred in imposing any or all of these challenged aggravating factors, we would not remand Harris' case to the trial court for resentencing. When a trial court abuses its discretion by considering improper aggravating factors, we remand for resentencing only "if we cannot say with confidence that the trial court would have imposed the same sentence had it properly considered reasons that enjoy support in the record." *Anglemyer*, 868 N.E.2d at 491. Here, the trial court could have properly sentenced Harris to the maximum forty-year sentence based solely upon the valid aggravating factor that Harris violated her position of trust as H.H.'s mother. Harris does not challenge this valid aggravating factor, and one valid aggravating factor is enough to enhance a sentence. *See Gleason v. State*, 965 N.E.2d 702, 712 (Ind. Ct. App. 2012).

4. Inappropriate Sentence

[63] Harris also argues that her aggregate forty (40) year 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 her 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).

[64] 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, Harris was convicted of Level 1 felony neglect of a dependent resulting in death. The sentencing range for a Level 1 felony is from twenty (20) to forty (40) years, with an advisory sentence of thirty (30) years. I.C. § 35-50-2-4. The trial court sentenced Harris to forty (40) years, which is the maximum sentence.

[65] With regard to the nature of the offense, we note that, Dr. Slama-McManus, clearly told Harris that H.H., who had two black eyes, an internal ear injury, and a broken leg, was being abused. In addition, Harris knew that Tate was volatile and he had previously kicked her out of his house because he was angry "over the broken leg incident." (Tr. Vol. 4 at 157). At that time, Harris sent H.H. to Neal's home. Although Harris also knew that Tate was both taking and selling drugs and had, as Harris told Detective Cole, "been getting angrier and angrier" around the time that he brutally beat H.H, Harris brought H.H. back into this dangerous situation. Shortly thereafter, Tate molested H.H., burned him with a cigarette, bit him, and brutally beat him to death. Eighteen-month-old H.H. specifically had more than fifty blunt force traumatic injuries as well as bleeding: (1) in his skull on both sides of his brain; (2) in the back of both his eyes; (3) on his optic nerve; (4) in his large and small intestines; and (5) in his abdomen.

[66] The character of the offender is found in what we learn of the offender's life and conduct. Here, Harris' violation of her position of trust with her eighteen-

month-old son reflects very poorly on her character. *See Hart*, 829 N.E.2d at 544. As the trial court pointed out, there was no one that H.H. should have been able to depend on and trust more than Harris, and Harris "betrayed that." (Tr. Vol. 5 at 56). Further, when considering the character of the offender, one relevant fact is the defendant's criminal history. *Johnson v. State*, 986 N.E.2d 852, 857 (Ind. Ct. App. 2013). Although Harris' criminal history includes only two misdemeanor convictions, even a minor criminal record reflects poorly on a defendant's character and shows that she was not deterred by previous contacts with the criminal justice system from committing the current offense. *See Reis v. State*, 88 N.E.3d 1099, 1105 (Ind. Ct. App. 2017). We further note that Harris taking evidence from the crime scene, placing it in the trunk of Greenlee's car, and keeping it for two days when Detective Cole had asked her to immediately take it to the police station is another poor reflection on Harris' character. Finally, Harris' dishonest responses to questions from medical professionals and law enforcement officials is also a poor reflection on her character.

[67] Based on the nature of the offense and her character, Harris has failed to persuade this Court that her aggregate forty (40) year sentence is inappropriate.

[68] Affirmed.

Vaidik, J., and Brown, J., concur.