MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Anne Medlin Lowe
Fugate Gangstad LLC
Carmel, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jodi Kathryn Stein
Supervising Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

George A. Kisor,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 18, 2022

Court of Appeals Case No. 22A-CR-155

Appeal from the Parke Circuit Court

The Honorable Samuel A. Swaim, Judge

Trial Court Cause No. 61C01-1901-F2-4

Najam, Judge.

Statement of the Case

[1] George A. Kisor appeals his conviction for conspiracy to commit dealing in methamphetamine, a Level 2 felony. Kisor raises three issues for our review, which we restate as:

1. Whether the trial court abused its discretion when it admitted into evidence recorded jail-house conversations between Kisor and other individuals.

2. Whether the State presented sufficient evidence to support Kisor's conviction.

3. Whether Kisor's sentence is inappropriate in light of the nature of the offense and his character.

[2] We affirm.

Facts and Procedural History

[3] In October 2018, Kisor lived at a residence located in Hillsdale. On October 17, Kisor was arrested and charged with dealing in methamphetamine—a charge unrelated to the events that led to this appeal—and was incarcerated in the Parke County Jail. When Kisor's friend Tamara McClain Jordan, learned that Kisor was incarcerated, she went to Kisor's residence and found that the house had been ransacked and that it was "a complete mess[,]" with doors kicked in, windows broken, and items strewn about. Tr. Vol. 2 at 29. Jordan knew that Kisor had a large safe in his home where he kept methamphetamine. Jordan "busted [the safe] open" and removed the methamphetamine, cash,

jewelry, and a gun. *Id*. at 42. Amy Kite, a mutual acquaintance of Jordan and Kisor, purchased a new safe and brought it to Kisor's home. Jordan and Kite then transferred the items that Jordan had removed from the old safe into the new safe. Jordan retained the key and the combination for the new safe.

[4] Between October 20 and October 31, several individuals visited Kisor while he was housed in the Parke County Jail, and Kisor initiated and received numerous phone calls while he was incarcerated. The individuals Kisor communicated with included Jordan, Kite, Kite's daughter, Tia Kite ("Tia"), and Kisor's associate, Larry McCauley. The conversations were recorded by the jail's inmate recording system. During the course of the conversations, Kisor and the other individuals used coded messages when they discussed the drugs located at Kisor's Hillsdale home, drug sales, and drug debt collection. *See* State's Ex. 41. Kisor repeatedly referred to "key lime pie cookies," "puppies," "pups," "motors," and "motorcycle." *Id*. He also quoted prices for packages that Jordan had received, referenced money owed to Jordan, and instructed Jordan and McCauley to work together. *Id.* The relevant recorded conversations are as follows.

[5] On October 20, Kite and Tia visited Kisor at the jail, and Kite told Kisor that she had visited his house and that the door had been kicked in. Kisor asked Kite if "they g[o]t the safe," and she responded that she "got the yellow folder." State's Ex. 41, Recording 1 at 00:30-1:00. Kisor stated that he had $2,000 in his safe, and he told Kite that Jordan would "take care of you guys and make everything keep going." *Id.* at 5:12. He also told Kite that "the key lime pie"

was located at the house, and "believe me, it's well worth the find." *Id.* at 6:13-6:30. On October 21, Kisor called Jordan from jail and asked if she and Kite "got any key lime pie," and Jordan answered, "nope, not nothin'." State's Ex. 41, Recording 2 at 10:44-11:30. Later that day, Kisor called Jordan again and instructed her to collect money from certain people for "some killer key lime pie cookies" that Kisor was "selling for the Girl Scouts." State's Ex. 41, Recording 3 at 3:50-5:30; 8:00-9:00.

[6] On October 26, Kisor called Jordan and, among other things, asked her if she still had two "pups" or "plus" left. State's Ex. 41, Recording 6 at 1:40-1:55. She answered affirmatively and confirmed with Kisor that he had asked Jordan to give half to "Old Girl," later identified as Kite. *Id.* at 2:00-2:09. Kisor became angry and asked Jordan if she had given Kite "half of everything." *Id.* at 2:15-2:25. Kisor then called Kite and told her that "half" was too much for her, that he did not want her "to get that deep," and that he was sending Jordan to retrieve the package. State's Ex. 41, Recording 7 at 4:09-5:05. Later that day, Kisor called McCauley and asked him to meet with Jordan and "explain to her what she's got." State's Ex. 41, Recording 8 at 1:35-2:05. Kisor told McCauley to give "anything and everything" to Jordan. *Id.* at 4:45. That same day, Kisor called Jordan and told her that the "three motors" he left for her were valued at $40,000.00. State's Ex. 41, Recording 11 at 00:30-00:45. The two then discussed the "motorcycle" Jordan mistakenly gave Kite and $1,500 that Kite claimed she had paid to Jordan. State's Ex. 41, Recording 9 at 00:45-

2:10. Jordan stated that she had not received the $1,500 from Kite. Kisor told Jordan to "get back" what she gave to Kite. *Id.* at 6:09.

[7] On October 27, Jordan visited Kisor at the jail. Kisor asked Jordan if she "[got] the money" and asked Jordan how many "puppies" Kite "g[o]t back." State's Ex. 41, Recording 10 at 00:23-1:00. He told Jordan, "If they ain't got cash in their hands then they don't get the puppies." *Id.* at 4:10-4:15.

[8] Based upon the information obtained from the jail-house recordings, Parke County Sheriff Justin Cole applied for and received a search warrant for Kisor's home. Officers executed the search warrant on October 31 and found Jordan inside the home. Jordan admitted to the officers that the safe inside the house contained methamphetamine. Officers found inside of Jordan's purse the combination to the safe, around $4,700 in cash, and hydrocodone pills. But the safe could not be opened without the safe's key. Jordan had placed the key on her key ring, but she did not tell the officers that she had done so, and she did not give the key to the officers. The officers eventually called the local fire department to break into the safe. After the officers gained access to the safe, they found inside "a large amount of jewelry, coins, knives," and two packages that contained approximately 1.4 pounds of methamphetamine—178.96 grams in one package and 444.51 grams in the other. Tr. Vol. 2 at 143. The officers also found cash and drug paraphernalia in the home. Sheriff Cole returned to the Parke County Jail and informed Kisor that "we had got his puppies and they were safe now." *Id.* at 159.

[9] Jordan was arrested and charged in Vermillion County with Level 2 felony dealing in methamphetamine, Level 3 felony possession of methamphetamine, and possession of a controlled substance for the hydrocodone pills found in her purse. Jordan entered into a plea agreement and agreed to plead guilty to the Level 3 felony possession charge. The agreement provided that she would receive the nine-year advisory sentence for the offense, with the terms and conditions of her sentence left to the trial court's discretion. The agreement further provided that Jordan was required to cooperate fully in the Parke County investigation of Kisor, and, in exchange, she would not be charged with any offenses in Parke County.

[10] Kisor's jail-house phone calls continued to be recorded after the execution of the search warrant and Jordan's arrest. After Sheriff Cole told Kisor that his "puppies" had been seized, Kisor called Kite and Tia and told them to contact Jordan. *Id.* They told Kisor that Jordan had been arrested. Kisor then told Kite and Tia to "tell everybody to take a vacation, [and to] sit down and relax." State's Ex. 41, Recording 16 at 2:10-2:14.

[11] On January 4, 2019, the State charged Kisor with Level 2 felony conspiracy to commit dealing in methamphetamine in an amount greater than ten grams. The court held a three-day jury trial from November 30 through December 2, 2021. At trial, Jordan testified that, while Kisor was incarcerated, she communicated with him by telephone and during in-person visits at the jail And she testified that, during those conversations, Kisor indicated that he "wanted [her] to collect money that was owed to him and to sell some of the

methamphetamine that was . . . at his house." Tr. Vol. 2 at 30. She added that she was "collecting money for him and . . . was also selling methamphetamine"; that she had delivered methamphetamine to certain individuals "maybe five or six times"; that she had delivered a large quantity of methamphetamine to Kite; and that Kisor later "instructed [her] to get that meth back" from Kite. *Id.* at 30-31. Jordan also testified that Kisor used "code terms" when she visited him at the jail and that, when the two used the term "puppies," "most of the time" they were not referring to "real live dogs." *Id.* at 32-33. Jordan further testified that Kisor told her to deliver "[a]ll of the methamphetamine" to an individual named Matt Huffman, but that she was unable to do so because Huffman "got spooked." *Id.* at 34-35.

[12] Sheriff Cole testified for the State. During his testimony, the State introduced into evidence State's Exhibits 4 through 17, which were unredacted versions of the recorded jail-house conversations between Kisor and Jordan, Kite, Tia, and McCauley. Over Kisor's objections, the recordings were admitted into evidence. However, redacted versions of the recordings were played for the jury.[1]

[13] At the conclusion of the trial, the jury found Kisor guilty as charged. At Kisor's sentencing hearing, the trial court found as aggravating factors that Kisor had two prior felony convictions and other charges pending at the time he

[1] During trial, the State also admitted as evidence State's Exhibit 41, which was a thumb drive that contained the redacted versions of the conversations that were played to the jury.

committed the current offense, that Kisor had committed the present offense while incarcerated for a similar offense, and that Kisor had "conspir[ed] to deal over 600 grams of methamphetamine" when the enhancement to a Level 2 felony for the offense only required ten grams. Appellant's App. Vol. 2 at 119. The court found no mitigating circumstances. The court sentenced Kisor to thirty years in the Indiana Department of Correction ("DOC"), with two years served on work release and two years suspended to probation. This appeal ensued.

Discussion and Decision

Issue One: Admission of Evidence

[14] Kisor contends that the trial court abused its discretion when it admitted into evidence the recorded jail-house conversations between Kisor and Jordan, Kite, Tia, and McCauley.[2] Questions regarding the admission of evidence are entrusted to the sound discretion of the trial court, and we review the trial court's decision only for an abuse of that discretion. *Fuqua v. State*, 984 N.E.2d 709, 713 (Ind. Ct. App. 2013), *trans. denied*. The trial court abuses its discretion only if its decision regarding the admission of evidence is clearly against the logic and effect of the facts and circumstances before it or if the court has

[2] In his brief, Kisor refers to Exhibits 4-17. However, he challenges the admission of the redacted recordings contained within State's Exhibit 41, which were the recordings that were presented to the jury. As such, we limit our review to the admission of State's Exhibit 41. To the extent he challenges the admission of State's Exhibits 4-17, any error in the admission of those exhibits was harmless as they were not presented to the jury.

misinterpreted the law. *Id.* Kisor argues that some of the recorded conversations were inadmissible because they were not supported by an adequate foundation and others contained inadmissible hearsay. We address each argument in turn.

Proper Foundation

[15] First, Kisor claims that no foundation existed for the admission of the conversations contained in Recordings 4, 6, 7, and 8 from State's Exhibit 41, which were recorded phone or in-person conversations between Kisor and McCauley, Kisor and Jordan, and Kisor and Kite.[3] "To lay a foundation for the admission of evidence, the proponent of the evidence must show that it has been authenticated." *Pavlovich v. State*, 6 N.E.3d 969, 976 (Ind. Ct. App. 2014), *trans. denied*. Authentication of an exhibit can be established by either direct or circumstantial evidence. *Id.* Absolute proof of authenticity is not required, and the proponent of the evidence need establish only a reasonable probability that the document is what it is claimed to be. *Id.* Once this reasonable probability is shown, any inconclusiveness regarding the exhibit's

[3] On appeal, Kisor also argues that State's Exhibit 11 lacked a proper foundation, but Kisor did not object to the admission of that exhibit on foundation grounds, and he does not present an argument on appeal under the fundamental error doctrine. Therefore, he has waived this claim for our review. *See Bowman v. State*, 51 N.E.3d 1174, 1179 (Ind. 2016) (failure to object at trial coupled with failure to raise fundamental error in the appellate brief results in claim being "entirely waived."); *see also Grace v. State*, 731 N.E.2d 442, 444 (Ind. 2000) ("Grounds for objection must be specific and any grounds not raised in the trial court are not available on appeal.").

connection with the events at issue goes to the exhibit's weight, not its admissibility. *Id.*

[16] Here, Sheriff Cole identified the recordings as taken at the jail on the relevant dates, and Jordan testified that, after Kisor was incarcerated, she communicated with him by telephone and during in-person visits at the jail. *See* Tr. Vol. 2 at 30-31, 90-94. This is sufficient to lay a foundation for the admission of the recordings. Therefore, we hold that the court did not abuse its discretion when it admitted into evidence Recordings 4, 6, 7, and 8.

Hearsay

[17] Next, Kisor claims that the admission of the conversations contained in Recordings 1, 2, 4, 7, and 8—that is, recorded phone or in-person conversations between Kisor and Kite and between Kisor and McCauley—violated the rule against hearsay. Kisor argues that the conversations were "classic hearsay" and were "offered into evidence to prove the truth of the facts rela[yed] by Kite and McCauley during the calls. Appellant's Br. at 16. Kisor asserts that the State "relied on [Kite's and McCauley's] hearsay statements in making this case[,] and, "comparing these hearsay statements to the rest of the evidence presented at trial, there is a strong likelihood that the hearsay statements contributed to the guilty verdict." *Id.* at 17. The State argues that the statements are not hearsay under two theories of admissibility: (1) the statements were not admitted to prove the truth of the matters asserted, and (2) the statements were made by coconspirators. At trial, the court allowed the recorded conversations containing Kite and McCauley's statements to be admitted under Indiana Rule

of Evidence 801(d)(2)(E), as statements of coconspirators during the course and in furtherance of the conspiracy.[4] In addition, Kisor conceded at trial that his own recorded conversations were admissible into evidence as a statement by a party-opponent, *see* Indiana Rule of Evidence 801(d)(2), and he conceded that Jordan's statements were admissible under Evidence Rule 801(d)(2)(E), a statement by a coconspirator. *See* Tr. Vol. 2 at 73; *see also* Appellant's Br. at 16.

[18] The Indiana Rules of Evidence define hearsay as "a statement that: (1) is not made by the declarant while testifying at the trial . . . ; and (2) is offered in evidence to prove the truth of the matter asserted." Ind. Evidence Rule 801(c). Hearsay is generally not admissible in evidence. *See* Evid. R. 802.

> Evidence Rule 801(d), however, specifies that certain statements that would otherwise constitute hearsay are, by rule, not hearsay at all. For example, an opposing party's statement is not hearsay. Evid. R. 801(d)(2). This is so when the opposing party is himself making the statement. Evid. R. 801(d)(2)(A). It is also the case when an opposing party's coconspirator is making the statement. Evid. R. 801(d)(2)(E).

M.T.V. v. State, 66 N.E.3d 960, 964 (Ind. Ct. App. 2016), *trans. denied*.

[19] Importantly, however, to be admissible under Rule 801(d)(2)(E),

> the coconspirator's statement must be made in furtherance of the conspiracy. [T]he coconspirator's "statement does not by itself

---

[4] It is unclear from the record whether Kite and McCauley were charged with any crimes for their involvement with Kisor's drug-dealing operation.

> establish . . . the existence of the conspiracy . . . . " [Evid. R. 801(d)(2)(E)]. Rather, the State must introduce "independent evidence" of the conspiracy before a coconspirator's statement will be admissible as non-hearsay. *Lander v. State*, 762 N.E.2d 1208, 1213 (Ind. 2002).

M.T.V., 66 N.E.3d at 964. A statement is made in the course of a conspiracy when it is "made between the beginning and ending of the conspiracy[.]" *Houser v. State*, 661 N.E.2d 1213, 1219 (Ind. Ct. App. 1996), *trans. denied*. And a statement is in furtherance of a conspiracy when the statement is "designed to promote or facilitate achievement of the goals of the ongoing conspiracy[.]" *Leslie v. State*, 670 N.E.2d 898, 901 (Ind. Ct. App. 1996) (quoting *United States v. Tracy*, 12 F.3d 1186, 1196 (2nd Cir. 1993)), *trans. denied*. To prove a conspiracy, the State need not prove the existence of a formal express agreement. *Porter v. State*, 715 N.E.2d 868, 870 (Ind. 1999). "It is sufficient if the minds of the parties meet understandingly to bring about an intelligent and deliberate agreement to commit the offense." *Id.* at 870-71 (citation omitted).

[20] Here, Jordan testified that she had acted on Kisor's instructions when she, first, delivered a large amount of methamphetamine to Kite and then, later, retrieved the drugs from Kite. Jordan further testified that she met with McCauley so that he could instruct her in how to handle a large amount of methamphetamine. She also testified that after Kisor's home had been burgled, Kite had purchased a new safe for the house so that Jordan and Kite could "put everything [from the old safe] back into [the new] safe[,]" and that Kite was "coming and going" from Kisor's house. Tr. Vol. 2 at 43, 45. The jail-house

recordings of the conversations between Kisor and Jordan indicated that the amount of methamphetamine that Jordan retrieved from Kite was less than had originally been delivered. And those conversations corroborated Jordan's testimony that Kisor told her to meet with McCauley.

[21] In other words, the independent evidence was more than sufficient to establish the existence of a drug-dealing conspiracy between Kisor, Kite, and McCauley for the purposes of Evidence Rule 801(d)(2)(E) and that Kite and McCauley's statements were made during and in furtherance of the conspiracy. *See, e.g., Mayhew v. State*, 537 N.E.2d 1188, 1190 (Ind. 1989) (finding statements made by a coconspirator admissible where a witness testified that the defendant told her about the conspiracy). Therefore, we hold that Recordings 1, 2, 4, 7, and 8 were properly admitted as coconspirators' statements, and the court did not abuse its discretion when it admitted the evidence.

[22] Even if we were to assume error in the admission of the evidence, we conclude that any error was harmless. An error in the admission of evidence is harmless "when the conviction is supported by such substantial independent evidence of guilt as to satisfy the reviewing court that there is no substantial likelihood that the questioned evidence contributed to the conviction." *Granger v. State*, 946 N.E.2d 1209, 1213 (Ind. Ct. App. 2011) (quoting *Lafayette v. State*, 917 N.E.2d 660, 666 (Ind. 2009)). By the time the recordings were admitted into evidence and played for the jury, Jordan, who was subject to cross-examination, had already testified to her interactions with Kite and McCauley at Kisor's behest and to Kite's and McCauley's participation in Kisor's drug-dealing operation.

The recordings were merely cumulative of Jordan's testimony. And, as our Supreme Court held in *McClain v. State*, 675 N.E.2d 329 (Ind. 1996), the admission of hearsay is not grounds for reversal where it is merely cumulative of other evidence admitted. *Id.* at 331-32.

Issue Two: Sufficiency of the Evidence

[23] Kisor also asserts that the State failed to present sufficient evidence to support his conviction. As our Supreme Court has made clear:

> For sufficiency of the evidence challenges, we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. On sufficiency challenges, we will neither reweigh evidence nor judge witness credibility. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.

Hall v. State, 177 N.E.3d 1183, 1191 (Ind. 2021) (internal citations omitted). It is not necessary that the evidence overcomes every reasonable hypothesis of innocence; rather, the evidence is sufficient if an inference may reasonably be drawn from it to support the conviction. *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007).

[24] To convict Kisor of Level 2 felony conspiracy to commit dealing in methamphetamine, the State was required to prove that Kisor, with the intent to commit dealing in methamphetamine in an amount greater than ten grams, agreed with Jordan to commit that offense and performed one or more of the following overt acts in furtherance of the agreement, namely,

> 1. [D]irected . . . Jordan to collect drug debts via coded conversations through the . . . jail inmate phone system, and/or
>
> 2. [Directed] . . . Jordan to distribute methamphetamine via coded conversations through the . . . jail inmate phone system, and/or
>
> 3. [Jordan] attempted to collect debts on behalf of . . . Kisor, and/or
>
> 4. [Jordan] delivered [m]ethamphetamine on . . . Kisor's behalf, and/or
>
> 5. [Jordan] possessed [m]ethamphetamine in excess of 10 grams.

Appellant's App. Vol. 2 at 32; *see also* Ind. Code §§ 35-41-5-2, 35-48-4-1.1 (2021). To support a conspiracy conviction, the State need not present direct evidence of a formal express agreement. *Erkins v. State*, 13 N.E.3d 400, 407 (Ind. 2014). "The agreement as well as the requisite guilty knowledge and intent may be inferred from circumstantial evidence alone, including overt acts of the parties in pursuance of the criminal act." *Id.* (quoting *Survance v. State*, 465 N.E.2d 1076, 1080 (Ind. 1984)).

[25] Kisor argues that the State "did not present evidence showing any prior agreement between [him] and Jordan to deal a specific amount [of methamphetamine] greater than ten grams[.]" Appellant's Br. at 18. We cannot agree. As for the existence of an agreement, Jordan explicitly testified that, while Kisor was incarcerated in the Parke County Jail, she communicated

with him by telephone and during in-person visits to the jail, that Kisor had used coded terms to refer to methamphetamine, that he "wanted her" to collect his drug debts and sell the methamphetamine he kept at this house, and that Jordan did, in fact, collect drug debts and sell the methamphetamine on Kisor's behalf. Tr. Vol. 2 at 30. When Jordan was asked on re-redirect examination if she was "originally fully on board with collecting [Kisor's drug] debts and [selling methamphetamine for him,]" she testified, "Originally I was, yes. I wanted to help him out." *Id.* at 57. In any event, Jordan was a coconspirator, and her testimony alone was sufficient to convict Kisor. "[A] conviction may be sustained solely upon the uncorroborated testimony of a co-conspirator." *Tidwell v. State*, 644 N.E.2d 557, 559 (Ind. 1994) (citing *Hammers v. State*, 502 N.E.2d 1339, 1341 (Ind. 1987)).

[26] Regarding the amount of methamphetamine involved, Jordan testified that the amount of methamphetamine that she delivered to Kite was "[s]ignificantly over an ounce[.]"[5] *Id.* at 53. Sheriff Cole testified that, when he and other officers executed the search warrant at Kisor's home, they discovered two packages of methamphetamine. And Troy Ballard, a forensic scientist with the Indiana State Police Laboratory, testified that the packages contained 178.96 and 444.51 grams of methamphetamine respectively.

[5] One ounce is the equivalent of 28.35 grams.

[27] This evidence was more than sufficient to support Kisor's conspiracy conviction, and his arguments to the contrary are nothing more than requests to reweigh the evidence. Therefore, we affirm Kisor's conviction for Level 2 felony conspiracy to commit dealing in methamphetamine in an amount greater than ten grams.

Issue Three: Appellate Rule 7(B)

[28] Finally, Kisor contends that his sentence is inappropriate in light of the nature of the offense and his character. Indiana Appellate Rule 7(B) provides that "[t]he Court 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." This Court has held that "[t]he advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed." *Sanders v. State*, 71 N.E.3d 839, 844 (Ind. Ct. App. 2017), *trans. denied*. And the Indiana Supreme Court has explained that:

> The principal role of appellate review should be to attempt to leaven the outliers . . . but not achieve a perceived "correct" result in each case. *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). Defendant has the burden to persuade us that the sentence imposed by the trial court is inappropriate. *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind.), as amended (July 10, 2007), *decision clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007).

Shoun v. State, 67 N.E.3d 635, 642 (Ind. 2017) (omission in original).

[29] Indiana's flexible sentencing scheme allows trial courts to tailor an appropriate sentence to the circumstances presented, and the trial court's judgment "should receive considerable deference." *Cardwell*, 895 N.E.2d at 1222. Whether we regard a sentence as inappropriate at the end of the day turns on "our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Id*. at 1224. The question is not whether another sentence is more appropriate, but rather whether the sentence imposed is inappropriate. *King v. State*, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008). Deference to the trial court "prevail[s] 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).

[30] In order to assess the appropriateness of a sentence, we first look to the statutory range established for the classification of the relevant offense. The sentencing range for a Level 2 felony is ten to thirty years, with an advisory sentence of seventeen and one-half years. I.C. § 35-50-2-4.5. Here, the trial court imposed the maximum sentence for Kisor's offense, but with two years served on work release and two years suspended to probation.

[31] On appeal, Kisor contends that his sentence is inappropriate in light of the nature of the offense because the offense was non-violent. The nature of the offense is found in the details and circumstances of the offense and the defendant's participation therein. *Lindhorst v. State*, 90 N.E.3d 695, 703 (Ind.

Ct. App. 2017). When reviewing a defendant's sentence that deviates from the advisory sentence, we consider whether there is anything more or less egregious about the offense as committed by the defendant that distinguishes it from the typical offense accounted for by our legislature when it set the advisory sentence. *Moyer v. State*, 83 N.E.3d 136, 142 (Ind. Ct. App. 2017), *trans. denied*.

[32] While Kisor was incarcerated in the Parke County Jail—after having been arrested and charged in a separate case with dealing in methamphetamine—Kisor attempted to continue his methamphetamine dealing operation by communicating with Jordan, Kite, Tia, and McCauley and providing the individuals with very specific instructions regarding drug debt collection, drug sales, and drug distribution. He used code words in his communications to avoid detection by the jail authorities. And Kisor did not deal in small amounts of methamphetamine. Sheriff Cole testified that a "higher[-]level" drug dealer in the "Terre Haute area" typically possessed "pounds to half[-]pounds" of contraband. Law enforcement found in Kisor's safe in his home approximately 1.4 pounds of methamphetamine, the equivalent of 623.47 grams, which is more than sixty times the amount required to constitute a Level 2 felony for dealing in methamphetamine. *See* I.C. § 35-48-4-1.1(e)(1). Therefore, given the nature of his offense, Kisor's sentence is not inappropriate. *See, e.g., Weiss v. State*, 848 N.E.2d 1070, 1072 (Ind. 2006) (holding defendant's aggregate forty-year sentence was not inappropriate given the nature of his offense when he "was involved in a large-scale drug operation that consisted of more than simply selling methamphetamine to an old friend").

[33] Kisor also contends that his sentence is inappropriate in light of his character. Kisor asserts that he is "not among the very worst offenders convicted of [L]evel 2 felonies"; his criminal history consists of "offenses [that] were mostly drug-related and non-violent"; and his criminal history "portrays a person struggling with addiction and in need of treatment[,]" as "the record makes clear that [he] has long suffered from drug addiction." Appellant's Br. at 21, 22 (internal quotation marks omitted). However, Kisor has not presented compelling evidence portraying his character in a good light. Kisor's criminal history reflects his poor character. Kisor was on probation for a 2017 conviction for Level 6 felony possession of methamphetamine when he committed the instant offense. His criminal history includes convictions of theft in Illinois in 2007; Level 6 felony possession of methamphetamine in 2016 and 2017; Class A misdemeanor domestic battery in 2017; and Class B misdemeanor possession of marijuana in 2016 and 2017. Kisor has pending charges in Parke County for Level 2 felony dealing in methamphetamine and pending charges in Vermillion County for theft, dealing in methamphetamine, and possession of methamphetamine.

[34] As for Kisor's argument that his sentence is inappropriate because he is in need of treatment for his drug addiction, Kisor explains that, when he moved to Indiana in 2015, "he was introduced by friends to methamphetamine and quickly became addicted, using daily until the time of his arrest[,]" and that he received substance abuse treatment twice in 2004, but has not received any other treatment for his addiction. *Id.* at 22. We note, however, that Kisor's

addiction to methamphetamine does not excuse his *dealing* in methamphetamine, and an addiction does not justify a person dealing in more than 600 grams of methamphetamine. In sum, Kisor has not shown compelling evidence of either substantial virtuous traits or persistent examples of good character to warrant a revision of his sentence. *See Stephenson*, 29 N.E.3d at 122. And to the extent that Kisor argues that the trial court should have recommended him for placement in the purposeful incarceration program, we remind Kisor that "[d]efendants do not have a right to placement in a program, and trial courts themselves have no authority to require the DOC to place a particular defendant into a program." *Miller v. State*, 105 N.E.3d 194, 196 (Ind. Ct. App. 2018) (citation omitted).

[35] Finally, Kisor attempts to compare his sentence to that imposed on Jordan. Kisor contends that his sentence is "particularly inappropriate when compared to the nine-year-sentence Jordan received as part of her plea deal, given the degree of Jordan's involvement in the alleged conspiracy." Appellant's Br. at 23. We cannot agree. Our Supreme Court has held that we "need not compare" sentences of codefendants. *Knight v. State*, 930 N.E.2d 20, 22 (Ind. 2010). Even if we were to attempt to compare the sentences, we have no information regarding Jordan's criminal history and little information regarding her character. Thus, we cannot say that Kisor is entitled to a lesser sentence on this ground or that the dissimilarity between the sentences requires revision of Kisor's sentence. We hold that Kisor's sentence is not inappropriate in light of the nature of the offense and his character.

Conclusion

[36] The trial court did not abuse its discretion when it admitted into evidence the jail-house recordings, the State presented sufficient evidence to support Kisor's conviction, and Kisor's thirty-year sentence is not inappropriate. We affirm Kisor's conviction and sentence.

[37] Affirmed.

Bradford, C.J., and Bailey, J., concur.