

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Thomas Eugene Loveless,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

January 19, 2022

Court of Appeals Case No.  
21A-CR-1267

Appeal from the  
Tippecanoe Superior Court

The Honorable  
Randy J. Williams, Judge

Trial Court Cause No.  
79D01-2001-MR-1

### **Molter, Judge.**

- [1] Thomas Eugene Loveless pleaded guilty to felony murder, and the trial court sentenced him to fifty-four years, one year less than the advisory sentence. The

trial court ordered him to serve fifty-two years in the Indiana Department of Correction (“DOC”) and suspended two years to supervised probation.

Loveless argues his sentence is inappropriate considering the nature of the offense and his character. Finding that Loveless’s sentence is not inappropriate, we affirm.

## **Facts and Procedural History**

[2] Loveless and Matthew Mace entered Charles Sandefur’s apartment intending to rob him. They knew Sandefur sometimes solicited sex through Facebook, so they tricked him into letting them into his apartment with the ruse that Sandefur would pay Loveless for the opportunity to perform oral sex on Loveless. But a few minutes after they entered the apartment, for reasons that are unclear, the situation escalated as Mace tried to choke Sandefur and stab him with a box cutter.

[3] Moments later, Mace sent Loveless to Sandefur’s kitchen to get longer, sharper knives that would inflict more serious wounds than the box cutter could. Mace stabbed Sandefur thirty times, and Loveless stabbed Sandefur twenty-four times. When Loveless and Mace left Sandefur’s apartment, they took Sandefur’s television, Xbox game system, and debit card. Loveless disposed of some of the knives in a dumpster. About two weeks later, Loveless and Mace used Sandefur’s debit card at a Village Pantry. A few days later, the Lafayette Police Department discovered Sandefur’s badly decomposed body in his apartment.

[4] The State charged Loveless with felony murder, murder, theft, fraud, and two counts of robbery. Ultimately, the parties reached an agreement that Loveless would plead guilty to felony murder, the State would drop the remaining charges, and Loveless’s sentence would be between forty-five and fifty-five years. The trial court accepted the plea agreement at the sentencing hearing, and, after hearing arguments from the parties, sentenced Loveless to fifty-four years. Fifty-two years are to be executed in DOC and two years are suspended to supervised probation. The trial court cited Loveless’s criminal history and the nature of the offense as aggravating factors and Loveless’s guilty plea and remorse as mitigating factors. Loveless now appeals his sentence.

### **Discussion and Decision**

[5] The Indiana Constitution authorizes appellate review and revision of a trial court's sentencing decision. *See* Ind. Const. art. 7, §§ 4, 6; *Jackson v. State*, 145 N.E.3d 783, 784 (Ind. 2020). “That authority is implemented through Appellate Rule 7(B), which permits an appellate court to revise a sentence if, after due consideration of the trial court’s decision, the sentence is found to be inappropriate in light of the nature of the offense and the character of the offender.” *Faith v. State*, 131 N.E.3d 158, 159 (Ind. 2019).

[6] Our role is only to “leaven the outliers,” which means we exercise our authority only in “exceptional cases.” *Id.* at 160. Thus, we generally defer to the trial court’s decision, and our goal is to determine whether the defendant’s sentence is inappropriate, not whether some other sentence would be more

appropriate. *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012). “Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant’s character (such as substantial virtuous traits or persistent examples of good character).” *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[7] When considering the nature of the offense, the advisory sentence is the starting point in our analysis. *Holloway v. State*, 950 N.E.2d 803, 806 (Ind. Ct. App. 2011). Loveless’s fifty-four-year sentence is one year less than the advisory sentence for felony murder. *See* Ind. Code § 35-50-2-3(a). Loveless contends that even this sentence below the advisory guidelines and below the maximum sentence he agreed to is inappropriately high. We disagree.

[8] To begin with, the brutal nature of Loveless’s crimes supports the trial court’s sentence. *See State v. Stidham*, 157 N.E.3d 1185, 1195 (Ind. 2020) (“The brutal nature of the offenses does not weigh in favor of finding [Defendant’s] sentence inappropriate.”). Once Mace decided that stabbing Sandefur with a box cutter was ineffective, Loveless retrieved other knives from Sandefur’s kitchen that would inflict more serious injuries on Sandefur. Together, Loveless and Mace stabbed Sandefur fifty-four times with Loveless stabbing Sandefur twenty-four times.

[9] Also, the deliberate, calculating nature of Loveless’s crimes supports the trial court’s sentence. *See Webb v. State*, 149 N.E.3d 1234, 1243 (Ind. Ct. App. 2020)

(concluding that a twenty-year sentence was not inappropriate considering “the deliberate and personal nature of [Defendant’s] offense.”). Loveless profiled Sandefur through a lengthy Facebook chat, even asking Sandefur if he was rich, was a military veteran, and owned guns. Sandefur’s answers to these questions made him the ideal victim for Loveless and Mace. Loveless’s crime was not a spontaneous, spur-of-the-moment act but instead the culmination of careful planning.

[10] Turning to the issue of his character, Loveless argues that his sentence is inappropriate because his criminal record is insignificant. We acknowledge that his criminal record is not among the worst, but we disagree that it is insignificant. In 2007, Loveless was adjudicated as a juvenile delinquent for committing what would have been Class A misdemeanor battery resulting in bodily injury if committed by an adult. Later, the State filed a motion to modify Loveless’s juvenile disposition because he misbehaved in school and in his foster home and also refused to complete disciplinary actions at school. Nonetheless, the trial court allowed Loveless to continue on unsupervised probation.

[11] In 2017, Loveless was convicted of Class A misdemeanor battery resulting in bodily injury, and the trial court allowed Loveless to serve part of his sentence through community corrections. The trial court later revoked Loveless’s participation in community corrections and ordered him to serve 180 days in the Tippecanoe County Jail because he violated several community corrections

rules. In 2019, Loveless was convicted of criminal trespass. This criminal record does not reflect well on Loveless's character.

[12] Loveless's history of substance abuse also does not portray his character in a positive light. He frequently used cocaine, methamphetamine, ecstasy, oxycontin, valium, Percocet, marijuana, and synthetic marijuana. Despite this history, Loveless has never sought drug treatment. *Id.*; *cf. Hape v. State*, 903 N.E.2d 977, 1002 (Ind. Ct. App. 2009) (explaining that a history of substance abuse is an aggravating circumstance when a defendant is aware of his substance abuse problem but has not sought treatment), *trans. denied*.

[13] To be sure, Loveless expressed remorse for his crime and pleaded guilty. However, he received a substantial benefit by pleading guilty to felony murder because, in exchange for Loveless's plea, the State dismissed all other charges. And while Loveless's remorse weighs in his favor, it does not constitute compelling evidence of a character so virtuous that his sentence is inappropriately high. *See Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015) (“[D]eference [to the trial court] should prevail unless overcome by compelling evidence portraying in a positive light . . . the defendant's character . . . such as substantial virtuous traits.”).

[14] In sum, Loveless's fifty-four-year sentence is not inappropriate because his sentence was one year less than the advisory sentence for felony murder, his crime was brutal and calculated, and he has not demonstrated virtuous character traits that would justify an even further reduced sentence.

[15] Affirmed.

Robb, J., and Riley, J., concur.