

## 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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Cory M. Jones,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 8, 2022

Court of Appeals Case No.  
22A-CR-137

Appeal from the Jay Circuit Court

The Honorable Brian D.  
Hutchison, Judge

Trial Court Cause No.  
38C01-2008-MR-4

**Altice, Judge.**

## Case Summary

- [1] Cory M. Jones pled guilty to Level 2 felony voluntary manslaughter, and the trial court sentenced him to twenty-seven and one-half years, enhanced by twenty years for being an habitual offender. Jones argues that his sentence is inappropriate in light of the nature of the offense and his character.
- [2] We affirm.

## Facts & Procedural History

- [3] Around 11:30 p.m. on August 22, 2020, Jones's father (Father) called 911. Father told police that, earlier that night, Jones had walked in the door and reported that he "accidentally shot" his girlfriend (Girlfriend). *Appendix* at 25. Jones asked Father for money, which Father refused, and Jones left, later texting Father that he was on his way to Illinois. Shortly after Father's 911 call, law enforcement located Girlfriend, deceased and face down in a yard, with injuries to the back of her head.
- [4] On August 24, 2020, the State charged Jones with murder and issued a warrant for his arrest. The next day, he was apprehended in West Virginia. Upon his arrest, Jones told officers that he had been in Florida for several weeks and was on his way back to Indiana to see his parents.
- [5] On September 30, 2021, the State filed its notice to seek habitual offender status based on a 1995 Class C felony burglary conviction and a 2018 Level 6 felony strangulation conviction. On November 29, 2021, Jones pled guilty pursuant to

a plea agreement to Level 2 felony voluntary manslaughter, acknowledging that he shot and killed Girlfriend “under sudden heat,” and he admitted to being an habitual offender. *Transcript* at 9. The plea agreement left sentencing open to the court’s discretion. The trial court entered judgment of conviction and set the matter for sentencing.

[6] At the January 7, 2022 sentencing hearing, neither party presented witness testimony, but Jones gave a statement in allocution, expressing that he “highly regret[ted]” what happened, and the presentence investigation report (PSI), which Jones agreed was true and correct with the exception of an issue regarding credit time, was admitted into evidence. *Id.* at 17. The State asked the court to impose fifty years, arguing that “ever since 1995 [Jones] has committed crimes that span from misdemeanors to felonies” and, after committing this crime, Jones “tried to run.” *Id.* at 16. Counsel for Jones asked the court to consider as mitigating Jones’s decision to plead guilty and his expression of remorse, suggesting that a total sentence of twenty-four and one-half years would be appropriate, as Jones was forty-five years old and “[t]hat [sentence] will be a substantial part of the rest of [] Jones’[s] life.” *Id.* at 17.

[7] The trial court found that Jones had “significant aggravating factors” including his criminal history and the fact that he fled the jurisdiction to avoid prosecution. *Id.* at 18. While the court recognized that Jones pled guilty, the court stated that it was “not going to afford a whole lot of weight” to that, as Jones received the benefit of avoiding a murder conviction. *Id.* The court

likewise did not “afford[] much weight” to Jones’s expression of remorse. *Id.* at 19.

[8] The court sentenced Jones to twenty-seven and one-half years for voluntary manslaughter and imposed a habitual offender enhancement of twenty years, for an aggregate forty-seven and one-half years at the Indiana Department of Correction. Jones now appeals.

## **Discussion & Decision**

[9] Pursuant to Ind. Appellate Rule 7(B), we may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, we find the sentence inappropriate in light of the nature of the offenses and the character of the offender. Indiana’s flexible sentencing scheme allows trial courts to tailor a sentence to the circumstances presented, and 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). The question under App. R. 7(B) is not whether another sentence is more appropriate; rather, the test is whether the sentence imposed is inappropriate. *Miller v. State*, 105 N.E.3d 194, 196 (Ind. Ct. App. 2018). Our role is to “leaven the outliers,” which means we exercise our authority in “exceptional cases.” *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019). Jones

bears the burden of persuading us that his sentence is inappropriate. *Barker v. State*, 994 N.E.2d 306, 315 (Ind. Ct. App. 2013), *trans. denied*.

[10] When determining whether a sentence is inappropriate, the advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed. *Childress v. State*, 848 N.E.2d 1073, 1081 (Ind. 2006). Here, Jones was convicted of Level 2 felony voluntary manslaughter, for which the sentencing range is between ten and thirty years, with the advisory being seventeen and one-half years. Ind. Code § 35-50-2-4.5. Jones also admitted to habitual offender status, which carries a possible enhancement of six to twenty years. I.C. § 35-50-2-8(i)(1). Here, for the underlying conviction, the trial court imposed twenty-seven and one-half years, which it enhanced by twenty years for an aggregate sentence of forty-seven and one-half years. Jones urges that “an appropriate sentence for this crime under the circumstances” is seventeen and one-half years for the voluntary manslaughter conviction enhanced by seven and one-half years, for a total of “twenty-five years executed.” *Appellant’s Brief* at 8.

[11] When reviewing the nature of the offense we look to the details and circumstances of the offense and the defendant’s participation therein. *Madden v. State*, 162 N.E.3d 549, 564 (Ind. Ct. App. 2021). Jones emphasizes that the offense was not premeditated and he “shot her in sudden heat.” *Appellant’s Brief* at 10. While limited in terms of detail about the nature of the offense, the record does reflect that Jones shot Girlfriend, apparently to the back of the head, given that police found her face down in a yard with injuries to the back

of her head. We are not persuaded that the nature of the offense warrants revision of Jones's sentence.

[12] Character is found in what we learn of the offender's life and conduct. *Perry v. State*, 78 N.E.3d 1, 13 (Ind. Ct. App. 2017). Jones emphasizes that he "has two minor children, a work history and a high school diploma," and he expressed remorse at sentencing. *Appellant's Brief* at 10. We observe that the trial court appeared to view Jones's expression of remorse at sentencing with some skepticism, noting "I hope it's sincere." *Transcript* at 18. Indeed, rather than calling 911, Jones tried to get money from his father before he fled to another state. He later texted Father stating he was headed to Illinois, when in fact he was headed eastbound, until he was apprehended in West Virginia. Then, upon arrest, he lied and told officers that he had been in Florida for several weeks.

[13] Furthermore, it is well settled that a defendant's criminal history is a relevant factor in analyzing character. *Madden*, 162 N.E.3d at 564. Jones acknowledges that he does have a criminal history but highlights that "his "criminal history domain score was just moderate," his more recent felony convictions were "less severe" than older ones, and "one of the underlying convictions occurred in the year 1995." *Appellant's Brief* at 8, 10. A review of his criminal history reveals that Jones has three prior felonies, namely, the 1995 Class C burglary and 2018 Level 6 felony strangulation, as well as a 2017 Level 6 felony conviction for operating a vehicle after being a habitual traffic offender. He has at least five prior misdemeanors, including 2008 Class A misdemeanor battery resulting in

bodily injury, 2014 auto theft, and several substance driving offenses. Jones violated probation on at least four occasions and failed to appear or report six times. And Jones had active warrants out of two other counties at the time of the offense. Jones's repeated disregard for the law does not portray his character in "a positive light," which is his burden under App. R. 7(B). *See Stephenson*, 29 N.E.3d at 122.

[14] In sum, upon considering the nature of the offense and Jones's character, we do not find that his sentence is inappropriate.

[15] Judgment affirmed.

Vaidik, J. and Crone, J., concur.