

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Talmadge Russell Jasper,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 7, 2021

Court of Appeals Case No.
21A-CR-358

Appeal from the Tippecanoe
Superior Court

The Honorable Steven P. Meyer,
Judge

Trial Court Cause No.
79D02-1905-MR-1

Weissmann, Judge.

- [1] At age 18, Talmadge Jasper murdered his best friend, Ryan Martin, who had begun living with Jasper's ex-girlfriend. The trial court sentenced Jasper to 60 years of imprisonment. Jasper now appeals, arguing that the trial court abused its discretion at sentencing and that the sentence is inappropriate. Finding no error, we affirm.

Facts

- [2] Jasper worked with Martin, whom he once described as his "best friend." Tr. Vol. II, p. 57. Around April 2019, Jasper learned that Martin began dating and living with Jasper's ex-girlfriend and ex-roommate, Skyler Renn. One week prior to the killing, Jasper purchased a hammer, a pair of gloves, a saw, and a tarp. On the day of the murder, Jasper asked Martin for a ride home and invited him inside. After they entered the home, Jasper struck Martin four times with the hammer and strangled him with a wire. He then placed Martin's body inside a plastic bin in a bedroom closet.
- [3] When Martin did not come home from work, Renn and Martin's family became concerned for his safety and asked police to check Jasper's apartment. Detectives discovered Martin's body and arrested Jasper, who was charged with murder, residential entry, and invasion of privacy. Pursuant to a plea agreement, Jasper pleaded guilty to murder in exchange for the State's dismissal of the other charges. The trial court accepted the plea and sentenced Jasper to 60 years of imprisonment. Jasper now appeals.

Discussion and Decision

- [4] Jasper challenges his 60-years sentence, arguing that the trial court abused its discretion in finding certain aggravating factors. Jasper also argues that his sentence is inappropriate under Indiana Appellate Rule 7(B).

I. Abuse of Discretion

- [5] Jasper claims the trial court erroneously found two aggravating circumstances at sentencing: (1) the impact of the offense on Martin’s family, and (2) uncharged allegations that Jasper committed domestic violence against Renn and abused prescription drugs. Sentencing decisions rest within the sound discretion of the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007) *clarified on reh’g*, 875 N.E.2d 218. As long as the sentence is within the statutory range, it is subject to appellate review only for abuse of discretion. *Id.* at 490. An abuse of discretion occurs if a decision is “clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions drawn therefrom.” *Id.* at 491 (internal quotation omitted). A trial court does not abuse its discretion by failing to properly weigh aggravating and mitigating factors. *Id.*

A. Impact on Victim’s Family

- [6] Jasper contends the trial court abused its discretion by considering the impact on Martin’s family because victim impact normally does not qualify as an aggravating circumstance. We agree but find this error harmless.

- [7] Like a presumptive sentence under Indiana’s previous statutory sentencing scheme, the advisory sentence for a crime takes into account the crime’s impact on others, including a victim’s family. *See Harris v. State*, 824 N.E.2d 432, 441 (Ind. Ct. App. 2005), *trans. denied*. Accordingly, the impact on others may qualify as an aggravating factor only if it is “different than the impact on families and victims which usually occur[s] in such crimes.” *Mitchem v. State*, 685 N.E.2d 671, 680 (Ind. 1997). Such impact must be “of a destructive nature that is not normally associated with the commission of the offense in question” yet still “foreseeable to the defendant.” *Gober v. State* 163 N.E.3d 347, 354 (Ind. Ct. App. 2021), *trans. denied*.
- [8] The State argues that several aspects of Jasper’s crime justified the trial court’s finding of family impact as an aggravating circumstance. Specifically, the State highlights that Martin’s family called police because they suspected malfeasance (Ex. 27); they could not view Martin’s body after the crime because he was so badly beaten (Tr. Vol. II, pp. 53-54); and Martin was a doting father (Tr. Vol. II, pp. 43-44, 46-50, 52, 54-55). We are not persuaded that this family impact is of a nature not normally associated with murder and not already encompassed in the advisory sentence. *See Comer v. State*, 839 N.E.2d 721, 728 (Ind. Ct. App. 2005) (finding the breakdown of victim’s relationship with her mother was not an impact of a destructive nature not normally associated with the commission of child molestation), *trans. denied*.
- [9] Nevertheless, the trial court’s consideration of family impact as an aggravating circumstance amounts to harmless error. “An error is harmless where it can be

said with assurance that the error did not affect the substantial rights of the party.” *Tate v. State*, 161 N.E.3d 1225, 1234 (Ind. 2021) (citing Ind. Trial Rule 61). Had the family impact aggravator been excluded at sentencing, the other valid aggravating circumstances still justified Jasper’s 60-year sentence. *See Buford v. State*, 139 N.E.3d 1074, 1081 (Ind. Ct. App. 2019) (finding that even if the court considered an improper aggravator, other valid aggravating circumstances justify the sentence enhancement). Notably, the trial court considered the impact on Martin’s family in conjunction with the significant harm Martin suffered—death. And “the harm, injury, loss, or damage suffered by the victim of an offense” is a statutorily authorized aggravating circumstance. *See* Ind. Code § 35-38-1-7.1(a)(1). We therefore are confident that any error associated with the family impact aggravator did not impact Jasper’s sentence. *See generally Anglemeyer*, 868 N.E.2d at 491 (“[R]emand for resentencing may be the appropriate remedy 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”).

B. Uncharged Crimes

- [10] Jasper further contends that the trial court abused its discretion in considering uncharged allegations of domestic violence and misuse of prescription drugs as evidence of his “failure to lead a law-abiding life.” App. Vol II, p. 21. “Uncharged crimes may be considered in assessing ‘lack of criminal history’ as a claimed mitigating circumstance. *Wilkes v. State*, 917 N.E.2d 675, 692 (Ind. 2009) (citing *Rouster v. State*, 600 N.E.2d 1342, 1348-49 (Ind. 1992)). Jasper

concedes he misused prescription drugs. However, he questions the reliability of the evidence supporting the trial court's finding of prior domestic violence.

[11] At Jasper's sentencing hearing, the State introduced into evidence without objection a protective order filed by Renn against Jasper a few months before the murder. Exhs., pp. 2-4, 6. According to these documents, while Jasper and Renn were still living together, they got into an argument about whether he was cheating on her. According to the protective order, Jasper refused to let Renn leave the apartment and over several days, he pushed her against a wall, put his hands around her throat, and tackled her when she tried to escape. *Id.*

[12] Jasper argues for the first time on appeal that the "cursory police investigation" and "pro forma findings" contained in Renn's Order of Protection are hearsay and render the trial court's findings "specious in nature." Appellant Br., p. 11. We disagree. "It is well-settled that hearsay evidence is admissible at a sentencing hearing." *Coleman v. State*, 162 N.E.3d 1184, 1188 (Ind. Ct. App. 2021) (citing *Dillon v. State*, 492 N.E.2d 661, 664 (Ind. 1986), *trans. denied*); see Ind. Evidence Rule 101(d)(2). Such relaxed evidentiary rules allow the sentencing court to acquire "the fullest information possible concerning the defendant's life and characteristics." *Coleman*, 162 N.E.3d at 1189 (citing *Thomas v. State*, 562 N.E.2d 43, 47 (Ind. Ct. App. 1990)).

[13] Here, the court considered Jasper's alleged violent acts against Renn, which were evidenced by a police report, photos of her injuries, and a protective order granted by the Clark Circuit Court. Exhs., pp. 2-4, 6. This evidence was useful

in gathering the “fullest information possible” about Jasper and we find no error in its admission without objection at Jasper’s sentencing hearing. Tr. Vol. II, p. 41.

- [14] For these reasons, we find that the trial court did not abuse its discretion when it considered as aggravating factors Jasper’s alleged acts of domestic violence and prior misuse of prescription drugs.

II. Inappropriate Sentence

- [15] Jasper also challenges his sentence under Indiana Appellate Rule 7(B), arguing that the trial court’s fully executed sentence of 60 years is inappropriate “in light of the nature of the offense and character of the offender.” We disagree.

- [16] “Appellate Rule 7(B) requires us to consider both the nature of the offense and the character of the offender,” but these are “separate inquiries that we ultimately balance to determine whether a sentence is inappropriate.” *Turkette v. State*, 151 N.E.3d 782, 786 (Ind. Ct. App. 2020), *trans. denied*. We conduct this review with “substantial deference” to the trial court because the “principal role of [our] review is to attempt to leaven the outliers, and not to achieve a perceived correct sentence.” *Knapp v. State*, 9 N.E.3d 1274, 1292 (Ind. 2014) (quotations and citations omitted).

- [17] Here, the brutal and calculated nature of the murder supports the trial court’s sentence. Jasper purchased the items necessary to kill Martin one week before committing the crime. He then lured Martin into his apartment, bludgeoned him four times with a hammer, and retrieved a ligature to strangle the

remaining life from him. Jasper deposited Martin's body in a plastic storage bin and stowed it in the bedroom closet along with some bloody couch cushions. Given the reprehensible nature of Jasper's actions, we do not find the nature of the offense should mitigate his sentence.

[18] Turning to the character of the offender, Jasper argues that the 60-year sentence is inappropriate in light of his young age, remorse, lack of criminal record, and guilty plea. Despite his youth, Jasper has a history of violent behavior and admitted to misuse of prescription drugs. Jasper also showed poor character by attempting to dupe mental health examiners through reports of visual and auditory hallucinations that the examiners viewed as "entirely fabricated or grossly exaggerated" and "suggestive of malingering." App. Vol. II, pp. 173; 184-85. In short, Jasper has failed to demonstrate an overall character that warrants relief. Considering the nature of the offense and the character of the offender, we find that Jasper's sentence is not inappropriate.

[19] We therefore affirm the trial court's judgment.

Mathias, J., and Tavitas, J., concur.