MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

John Franklin Bryant,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 13, 2023

Court of Appeals Case No. 21A-CR-2914

Appeal from the Monroe Circuit Court

The Honorable Mary Ellen Diekhoff, Judge

Trial Court Cause No. 53C05-2005-MR-394

Weissmann, Judge.

[1] John Bryant killed his girlfriend of two months, Heather Nanny-Cole, by stabbing her 157 times with a paring knife. Nanny-Cole's lifeless body then remained in Bryant's living room for 11 days, during which Bryant either lied or deflected questions about Nanny-Cole's disappearance. Police ultimately discovered Nanny-Cole's body after Bryant allowed police into his apartment after successive contacts by two officers inquiring about Nanny-Cole's disappearance.

[2] Bryant was charged and convicted of murder and sentenced to 60 years in prison. Bryant appeals, claiming police violated his rights under the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution when they conducted a "knock and talk"[1] at his apartment door, entered his apartment at his invitation and without a warrant, and discovered Nanny-Cole's body under blankets in his living room. Bryant also challenges his sentence as unduly harsh. Finding no constitutional violation or sentencing error, we affirm.

Facts

[3] Bryant and Nanny-Cole met in March of 2020 on an internet dating site. During the next two months, they typically would spend a few days at Nanny-Cole's house each week, followed by a few days at Bryant's apartment. On May

[1] A knock and talk investigation "involves officers knocking on the door of a house, identifying themselves as officers, asking to talk to the occupant about a criminal complaint, and eventually requesting permission to search the house." *Hayes v. State*, 794 N.E.2d 492, 496 (Ind. Ct. App. 2003).

6, 2020, Bryant and Nanny-Cole argued at Nanny-Cole's home about a man that she was texting. Bryant asked Nanny-Cole to take him home, so the two drove to Bryant's apartment and remained there the rest of the evening. Later that night, Nanny-Cole called Bryant's sister and hung up. Bryant's sister called the Bloomington Police Department to request a welfare check because she was worried about Bryant.

[4] Just after midnight, Bloomington Police Department (BPD) Officer Idris Harris knocked on Bryant's apartment door, and Nanny-Cole let him in. Bryant was visibly intoxicated, holding an alcoholic beverage, and slurring his speech. Nanny-Cole appeared sober. Bryant became aggressive with Officer Harris before being calmed by Nanny-Cole. Officer Harris stayed for about 20 minutes and left after Nanny-Cole assured her that Bryant would never harm her. Later that night, Bryant stabbed Nanny-Cole with a knife 157 times on both the front and back of her body. At least 25 of the wounds were inflicted after her death. Nanny-Cole's body remained on the living room floor of Bryant's apartment for the next 11 days while he kept living there.

[5] When Nanny-Cole did not respond to phone calls and text messages from both her adult son and a close friend, Erin Shipley-Courter, the pair jointly reported her missing. Two days after that report, and 11 days after the welfare check, Shipley-Courter drove to Bryant's apartment. She saw Nanny-Cole's car parked in the apartment parking lot and requested Bryant allow her into the apartment. Bryant refused, and Shipley-Courter called police.

[6] BPD Officer Garrett Mitchell responded to the call and knocked on Bryant's door after speaking to Shipley-Courter. Officer Mitchell told Bryant that he was looking for Nanny-Cole, and Bryant told him that she was not in the apartment. When Officer Mitchell asked to enter the apartment, Bryant refused. Officer Mitchell, noting the smell of marijuana emanating from Bryant's apartment, told Bryant "this can be as difficult as you make it" and that he did not "care about the weed." Initial Bodycam video captioned "FOLLOW-UP 7," 3:00-3:30. Bryant admitted he smoked marijuana that morning but continued to refuse Officer Mitchell entry into the apartment. Bryant told the officer that he would need to get a warrant. Bryant also suggested that Officer Mitchell contact Bryant's attorney, whom Bryant did not name. When Officer Mitchell asked Bryant to step out of the apartment, Bryant refused and closed the door.

[7] Officer Mitchell contacted his supervisor, who decided that a detective should respond. BPD Detective Jeff Rodgers arrived at Bryant's apartment about 15 or 20 minutes later. Detective Rodgers knocked repeatedly on Bryant's apartment door, announced he was there in connection with Nanny-Cole's disappearance, and then spoke to Bryant through the door. Bryant told Detective Rodgers to contact Bryant's attorney. But when Detective Rodgers asked for the attorney's name, Bryant did not reveal it. After Detective Rodgers assured Bryant that he was only there about Nanny-Cole's disappearance, Bryant opened the door and told Rodgers that he could enter the apartment. Detective Rodgers asked Bryant if he was sure, and Bryant confirmed he was.

[8] Detective Rodgers and two other officers entered the apartment and saw Nanny-Cole's body under a blanket near the living room couch with a knife nearby. Based on his observations, Detective Rodgers obtained a warrant to search Bryant's apartment. Bryant, who was immediately taken into custody, later told police that he did not remember the events leading to Nanny-Cole's death.

[9] Bryant was charged with murder. At his jury trial, Bryant objected to evidence obtained during his encounters with Officer Mitchell and Detective Rodgers and through their warrantless entry. Tr. Vol. II, pp. 195-96. Claiming the encounters, entry, and initial search violated both the state and federal constitutions, Bryant argued his encounter with Officer Mitchell was an illegal "knock and talk" and that he did not voluntarily consent to the officers' entry and search. The trial court overruled Bryant's objection, finding Bryant validly consented to the search and that exigent circumstances justified the officers' contacts with Bryant and their entry into and initial search of the apartment.

[10] Testifying on his own behalf, Bryant claimed he killed Nanny-Cole in self-defense after she shoved him and armed herself with a knife. The jury found Bryant guilty of murder, and the trial court sentenced him to 60 years in prison. Bryant appeals.

Discussion and Decision

[11] Bryant challenges both his murder conviction and his sentence. As to his conviction, Bryant claims the trial court erroneously admitted evidence

obtained during the search of his apartment because the officers' warrantless entry violated both the state and federal constitutions. As to his 60-year sentence, Bryant claims that the trial court disregarded significant mitigating circumstances and that his sentence is inappropriate under Indiana Appellate Rule 7(B). We find no error and affirm.

I. Entry and Search

[12] Bryant contends the evidence arising from the officers' warrantless entry and search of his apartment was inadmissible under both the Fourth Amendment to the United States Constitution and Article 1, section 11 of the Indiana Constitution. Bryant asserts that the officers coerced his consent to their entry and search through a rogue "knock and talk."

[13] Trial courts have discretion to admit and deny evidence. *Hall v. State*, 177 N.E.3d 1183, 1193 (Ind. 2021). We review a trial court's exclusion of evidence for an abuse of that discretion. *Id.* We only reverse if the ruling is against the logic and effect of the facts and circumstances and the error affects the party's substantial rights. *Gerth v. State*, 51 N.E.3d 368, 371 (Ind. 2016). But when, as here, a challenge to an evidentiary ruling hinges on claims of an unconstitutional search or seizure, it raises a question of law that we review de novo. *Combs v. State*, 168 N.E.3d 985, 990 (Ind. 2021), quoting *Johnson v. State*, 157 N.E.3d 1199, 1203 (Ind. 2020). We address each constitutional claim separately.

A. Fourth Amendment

[14] The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend XIV. It generally prohibits warrantless searches, with a few limited exceptions, including exigent circumstances. *McGhee v. State*, 192 N.E.3d 1009, 1014-15 (Ind. Ct. App. 2020).

[15] "The warrant requirement becomes inapplicable where the 'exigencies of the situation' make the needs of law enforcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment. *Holder v. State*, 847 N.E.2d 930, 936-37 (Ind. 2006) (quoting *Mincey v. Arizona*, 437 U.S. 385, 393-94 (1978)). Exigencies include those calling for the protection of individuals threatened with imminent harm or the prevention of the imminent destruction of evidence. *Carpenter v. United States*, __ U.S. __, 138 S. Ct. 2206, 2222-23, 201 L.Ed.2d 507 (2018). In determining whether the exigent circumstances exception applies, courts consider the totality of the circumstances to decide whether police "faced an emergency that justified acting without a warrant." *Missouri v. McNeely*, 569 U.S. 141, 149 (2013).

[16] The trial court found exigent circumstances justified the warrantless entry and search. It noted evidence that Nanny-Cole was a medication-dependent diabetic, her medication was in her vehicle, her vehicle was parked outside Bryant's apartment with Nanny-Cole's laptop inside, and none of her relatives had heard from her since she and Bryant left for Bryant's apartment nearly two

weeks earlier. Tr. Vol. II, pp. 191-92. The trial court also found that Bryant validly consented to the officers' entry during the second police encounter. *Id.* at 192. Bryant challenges the trial court's findings of both exigent circumstances and valid consent.

[17] Bryant concedes that a missing person's absence, combined with other suspicious circumstances, may constitute exigent circumstances sufficient to justify a warrantless entry. Appellant's Br., p. 17 (citing *Vitek v. State*, 750 N.E.2d 346, 349 (Ind. 2001)). But he claims that most of the information suggesting exigent circumstances existed here was obtained during the "knock and talk" encounters, which he alleges were illegal seizures under the Fourth Amendment. Because his consent to search arose during the second of these encounters, Bryant also claims his consent was invalid as the product of coercive police tactics.

[18] For purposes of our Fourth Amendment analysis, we need not address the validity of the "knock and talk" encounters or of Bryant's consent. The record makes clear that exigent circumstances justified the officers' warrantless entry into Bryant's apartment before police initiated the "knock and talk."

[19] Before Officer Mitchell approached Bryant's apartment, police knew that Nanny-Cole had not been home or in contact with family or friends for 11 days in total and nearly a week after such contact would have been expected. She was not answering phone calls or responding to text messages from either her son or her close friend, Shipley-Courter. Police also knew that Nanny-Cole's

car was parked outside Bryant's apartment and that it contained her laptop computer and some of her medications.

[20] They also knew that Nanny-Cole's other medications were left on the bedside table at her home and that she was a diabetic. Nanny-Cole herself had informed police during the earlier welfare check that she was an asymptomatic diabetic and had not brought her service dog to Bryant's apartment because she "thought [she] was just coming to drop [Bryant] off." Exhs. 1, 12:42-50; Tr. Vol. II, p. 154. Police also were aware before their first knock on Bryant's door that Bryant was the last known person to see Nanny-Cole. Also, Shipley-Courter had informed police that Bryant had made conflicting statements about Nanny-Cole's disappearance to her and others.

[21] These facts provided "an objectively reasonable basis for [police] believing" that Nanny-Cole was in the apartment and that she needed immediate aid. *Michigan v. Fisher*, 558 U.S. 45, 47 (2009) (quoting *Brigham City v. Stuart*, 547 U.S. 398, 406 (2006)). The circumstances were sufficient in themselves—and without the other information obtained by police during their subsequent contact with Bryant—to justify the warrantless entry and limited search for her presence in the apartment. *See Faris v. State*, 901 N.E.2d 1123, 1126 (Ind. Ct. App. 2009) ("We will affirm the denial [of a motion to suppress] if it is sustainable on any legal grounds apparent in the record.").

[22] Accordingly, Bryant has established no Fourth Amendment violation arising from the officers' warrantless entry into his apartment. *See Vitek*, 750 N.E.2d at

349 (finding exigent circumstances and no Fourth Amendment violation where police conducted a warrantless search of home where suspect and victim lived based on knowledge that suspect was ill and last known contact was three weeks earlier).

B. Article 1, Section 11

[23] Article 1, Section 11 mirrors the Fourth Amendment but requires separate and independent analysis. *Wilford v. State*, 50 N.E.3d 371, 378 (Ind. 2016). The focus of an Article 1, Section 11 analysis is on the reasonableness of police conduct. *Baxter v. State*, 103 N.E.3d 1180, 1190 (Ind. Ct. App. 2018). When evaluating reasonableness, we consider three factors: 1) "the degree of concern, suspicion, or knowledge that a violation has occurred"; 2) "the degree of intrusion the method of the search or seizure imposes on the citizen's ordinary activities"; and 3) "the extent of law enforcement needs." *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005). The State must establish the police conduct was reasonable under the totality of the circumstances. *Robinson v. State*, 5 N.E.3d 362, 368 (Ind. 2014). The State has met that burden.

1. Degree of Concern, Suspicion, or Knowledge

[24] In Bryant's case, the degree of concern, suspicion, or knowledge that a violation occurred was high. When the State has claimed that a warrantless search was justified by exigent circumstances involving the need for emergency aid, we have construed this first *Litchfield* factor as meaning "the degree of concern that emergency medical assistance was needed." *Randall v. State*, 101 N.E.3d 831,

841 (Ind. Ct. App. 2018) (quoting *M.O. v. State*, 63 N.E.3d 329, 333 (Ind. 2016)).

[25] Police had substantial information suggesting that Nanny-Cole was in jeopardy, given her 11-day disappearance, the abandonment of her service dog, her diabetic condition, and the medication she left behind at her home and in her car. Nanny-Cole was last seen by police when conducting a welfare check at Bryant's apartment, where her car remained parked outside nearly two weeks later. Nanny-Cole normally spent each day with Bryant. Yet, Bryant had not reported her missing, and she had not returned to her home. Police also knew Nanny-Cole was not responding to phone calls from friends and family and had not been in contact with them for days beyond what was normal for her. These circumstances left police with a high degree of concern, suspicion, and knowledge that Nanny-Cole was within the apartment and in need of emergency aid.

2. Degree of Intrusion

[26] The degree of intrusion imposed on Bryant's ordinary activities was low to moderate. This second *Litchfield* factor does not focus on entry into real property, such as Bryant's apartment, but on "the degree of intrusion into the subject's ordinary activities" and the "basis upon which the officer selected the subject of the search or seizure." *Litchfield*, 824 N.E.2d at 360.

[27] The only intrusion on Bryant's ordinary activities evident from the record were the encounters with police during the two-stage "knock and talk" and, after

Bryant's consent, their entry into his home to look for Nanny-Cole. Focusing on the several officers and police cars present at the scene, Bryant contends the effect of those activities on his ordinary activities was great.

[28] The degree of intrusion is assessed from the defendant's point of view. *See Bell v. State*, 144 N.E.3d 791, 800 (Ind. Ct. App. 2022). Only one officer seemingly was visible to Bryant at the time of each "knock and talk" encounter. The encounters were brief and separated by only 15 to 20 minutes. In any case, the record does not reveal any evidence that the presence of multiple officers in the public areas around Bryant's apartment impacted his activities in any way or that he was even aware of the other officers' presence.

[29] Bryant also alleges the warrantless search was highly intrusive because the initial "knock and talk" was overly aggressive and should have ended when Bryant closed his apartment door and told Officer Mitchell to obtain a warrant. Bryant also argues that his consent was coerced through the illegal "knock and talk" and, therefore, invalid. Thus, according to Bryant, his consent did not reduce the intrusive nature of the warrantless entry.

[30] But the first stage of the "knock and talk" was not unduly coercive. Bryant focuses on Officer Mitchell's statement, "this can be as difficult as you make it" and on his general comments suggesting that Bryant's refusal to allow officers into the apartment was suspicious. Initial Bodycam video captioned "FOLLOW-UP 7," 2:55-3:10. But Bryant ultimately was not coerced because he ended the conversation and closed his door without allowing Officer

Mitchell inside. And Officer Mitchell made clear that he was interested only in determining whether Nanny-Cole was inside, not to investigate any other matter including Bryant's marijuana use. *Id.* at 3:00-3:30.

[31] As to the later encounter with Detective Rodger, "[t]he prevailing rule is that, absent a clear expression by the owner to the contrary, police officers, in the course of their official business, are permitted to approach one's dwelling and seek permission to question an occupant." *Hayes v. State*, 794 N.E.2d 492, 496 (Ind. Ct. App. 2003). Bryant contends he unequivocally expressed his objection to any further police contact at his apartment by refusing Office Mitchell's request to enter, by telling Officer Mitchell that he would need to obtain a warrant to enter, and by closing the door when Officer Mitchell asked him to step out of the apartment. Thus, Bryant claims the later contact with Detective Rodger necessarily was highly intrusive because it was unauthorized and coercive.

[32] Any unreasonableness in this second police encounter with Bryant is offset by the encounter's relative brevity and innocuous nature. Detective Rodgers merely asked to speak to Bryant, not to search his apartment. Although Detective Rodgers knocked forcefully four times and spoke to Bryant briefly through the door, Detective Rodgers was willing to work through Bryant's attorney. Detective Rodgers was not in uniform and did not have his weapon drawn. The other officers also had not drawn their weapons and seemingly were not visible to Bryant.

[33] Detective Rodgers made clear that he only wanted to speak to Bryant about Nanny-Cole's disappearance. Rather than giving Detective Rodgers the name of his attorney to contact—an act that reasonably could have ended the police contact—Bryant voluntarily opened the door and welcomed the detective into the apartment. In response to Detective Rodgers's question about whether Bryant was "sure," Bryant confirmed his consent to Officer Rodgers's entry. Bryant did not appear to show any emotion at the time, and he appeared to spoke in a normal tone. The record contains no indication that Bryant's consent to enter was coerced. Misuse of a "knock and talk" does not automatically negate a later consent to search. *See,* e.g., *State v. Keller,* 845 N.E.2d 154, 169-70 (Ind. Ct. App. 2006) (finding officer's improper knock and talk did not invalidate later consent to search).

[34] Police were at Bryant's home to locate Nanny-Cole, whom they believed needed emergency assistance. They sought to look inside Bryant's apartment briefly to determine whether she was there. Once they found her lifeless body on Bryant's living room floor and conducted a protective sweep of the apartment, police obtained a warrant to conduct the later search. We have found that a five-minute protective sweep after police legally entered a home presented a low degree of intrusion under *Litchfield*. *Weddle v. State*, 989 N.E.2d 371, 378-79 (Ind. Ct. App. 2013). Given the circumstances, we reject Bryant's claim of substantial intrusion and find the intrusion was low to moderate.

3. Extent of Law Enforcement Needs

[35] The extent of law enforcement needs was high in Bryant's case. Nanny-Cole was last seen 11 days earlier in Bryant's apartment with a drunk, aggressive Bryant. Police reasonably believed Nanny-Cole was in Bryant's apartment and in need of emergency aid. *See supra* ¶¶ 18-21. Given these urgent circumstances and the potential endangerment of life, the officers' need to enter Bryant's apartment was substantial. *See Snow v. State*, 118 N.E.3d 50, 59 (Ind. Ct. App. 2019) (finding law enforcement needs were high where officers entered a home to conduct welfare check on a couple with whom family and friends had not had contact for several weeks and their son had made conflicting statements about their whereabouts).

4. Balancing

[36] Although a conceivably moderate degree of intrusion was imposed on Bryant's ordinary activities, it was countered by the high degree of concern, suspicion, and knowledge about Nanny-Cole's disappearance and significant law enforcement needs. Any unreasonableness in Detective Rodgers's encounter with Bryant is offset by other evidence that supported a finding of probable cause to search: 1) the wealth of evidence that police had before the "knock and talk" that suggested Nanny-Cole was in danger and still inside the apartment; 2) Officer Mitchell's smell of the odor of marijuana during the initial knock and talk; and 3) Bryant's admission to Officer Mitchell that he had smoked marijuana that morning. *See Bunnell v. State*, 172 N.E.3d 1231, 1237-38 (Ind.

2021) (finding that officer's detection of marijuana smell based on their training and experience can establish probable cause to search).

[37] Given these circumstances, a balancing of the three *Litchfield* factors weighs in favor of a finding that Bryant's seizure during the police interactions and the officers' entry into and initial search of his apartment were reasonable. Accordingly, we find no violation of Article 1, Section 11 of the Indiana Constitution.

III. Sentencing

[38] Bryant contends the trial court abused its discretion in sentencing him to 60 years imprisonment. He claims the trial court ignored substantial grounds tending to excuse or justify Bryant's criminal behavior: that he allegedly was provoked and acted in sudden heat. Even if the trial court did not abuse its discretion, Bryant claims his sentence is inappropriate in light of the nature of the offense and the character of the offender. We reject both claims and affirm Bryant's sentence.

A. Abuse of Discretion

[39] Bryant argues that the trial court should have considered as a mitigating circumstance that he was provoked by Nanny-Cole and acted in sudden heat when killing her. Sentencing is a discretionary function of the trial court, and we review the trial court's choice of sentence only for an abuse of that discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007)*, clarified on reh'g on other grounds,* 875 N.E.2d 218 (Ind. 2007). A trial court abuses its discretion

by omitting from its sentencing statement mitigating or aggravating circumstances supported by the record and advanced for consideration. *Id.* at 491. Bryant bears the burden of showing "the mitigating evidence is both significant and clearly supported by the record." *Id.* at 493.

[40] The trial court may consider as mitigating circumstances that the defendant "acted with strong provocation" and that "there are substantial grounds tending to excuse or justify the crime, though failing to establish a defense." Ind. Code § 35-38-1-7.1(b)(4)-(5). The trial court rejected both of those proffered mitigators:

> I would say this to you Mr. Bryant[,] the Court concurs with the verdict of the jury and believes that you in fact, sir, did commit murder. That you did that knowingly and that you did that perhaps because you were in a temper. The Court disagrees however, sir[,] that you were in a state of rage. That you could not in fact control. The Court therefore rejects that mitigator although the Court did consider that along with the jury[, and] the Court in fact did consider and did look at the circumstances surrounding the killing of this wom[an] by Mr. Bryant and did look at the statutory elements and the Court rejects them . . . . What further the Court finds pertinent [sic] is that you used her vehicle a couple times to go the store as you stated previously. The Court is not convinced that there was a self-defense argument and that there was such a fit of rage that you were not able to stop yourself from killing this wom[an] and that in fact your intent was to kill this wom[an]. The jury found the evidence compelling as does the Court.

Tr. Vol. II, p. 241.

[41] Bryant's claims of provocation and sudden heat are intertwined. Sudden heat is defined as "sufficient provocation to excite in the mind of the defendant such emotions as anger, rage, sudden resentment, or terror." *Fox v. State,* 506 N.E.2d 1090, 1093 (Ind. 1987). Those excited emotions must be found to be sufficient to obscure the reason of an ordinary man. *Id.*

[42] Bryant argues that the trial court erroneously rejected sudden heat and provocation as mitigating circumstances just because the jury rejected sudden heat by entering a guilty verdict for murder, rather than voluntary manslaughter. Bryant notes that Indiana Code § 35-38-1-7.1(b)(4) specifically describes the "substantial grounds" mitigator as applying when those circumstances do not rise to a defense.

[43] But Bryant never substantiated, either at sentencing or on appeal, his claim that he was provoked and acted in sudden heat. He merely points to evidence showing that he had a good relationship with Nanny-Cole and suggests on that basis alone that the murder must have been provoked. The trial court was unpersuaded that the evidence showed Bryant killed Nanny-Cole in a rage that was both provoked by her and sufficient to obscure reason. Tr. Vol. II, p. 241. The gap of time between Bryant's purported rage over Nanny-Cole's text messages and her murder is not indicative of sudden heat. *Scheckel v. State*, 620 N.E.2d 681, 684 (Ind. 1993) (finding that an interval between the victim's slapping of the defendant and the defendant's killing of the victim "effectively depreciates any basis for the defendant's apparent attempt to characterize the

murder as a provoked occurrence which could . . . constitute evidence of a mitigating circumstance.").

[44] We find no abuse of discretion in the trial court's rejection of provocation and sudden heat as mitigators. *See Ousley v. State*, 807 N.E.2d 758, 763 (Ind. Ct. App. 2004) (affirming trial court's rejection of provocation mitigator where the accused's wife, who had fallen in love with another man, hit the accused, who responded by cutting her throat and shooting her).

B. Appropriateness

[45] Bryant's final claim is that his sentence is inappropriate under Appellate Rule 7(B). Even when a sentencing court has not abused its discretion, independent appellate review and revision are permitted. *Anglemyer*, 868 N.E.2d at 491. This 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." Ind. Appellate Rule 7(B). When conducting this review, we give "substantial deference" to the trial court because the principal task "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).

[46] Murder carries a sentence of 45 to 65 years imprisonment, with an advisory sentence of 55 years imprisonment. Ind. Code § 35-50-2-3. "[T]he advisory sentence is the starting point the Legislature selected as appropriate for the crime committed." *Pierce v. State*, 949 N.E.2d 349, 352 (Ind. 2011). The trial

court imposed a sentence of 60 years imprisonment, 5 years above the advisory sentence. Tr. Vol. II, p. 242.

[47] Bryant's arguments about the nature of the offense are unavailing. Bryant concedes his murder of Nanny-Cole was "shockingly violent." Appellant's Br., p. 27. He claims again that he was provoked and acted in sudden heat—assertions we have already rejected as unsupported by the evidence. Bryant also claims he did not hide his involvement in the murder. But that is not entirely true. He lied about Nanny-Cole's whereabouts after the murder, and he initially refused to allow police in his apartment. His admission to the offense is little reason for leniency, given that it came 11 days after Nanny-Cole's death and only after police found her body and the murder weapon in his apartment. Bryant also notes that he did not flee or falsely implicate anyone else in the crime, but those assertions do not advance his claims of an overly harsh sentence.

[48] As to the character of the offender, Bryant is no stranger to the criminal justice system. He has been convicted of four felonies and twelve misdemeanors. Although his last convictions before the murder occurred close to two decades ago, they notably arose from Bryant's attacks on his then girlfriend and his threat to kill her. Exhs, pp. 107-35.

[49] Bryant claims he is mentally ill and was intoxicated when he committed the crime. However, the trial court found no "verification that [Bryant] in fact does

have any type of mental illness." Tr. Vol. III, p. 242. And his intoxication is not a defense. *See, e.g.*, Ind. Code § 35-41-2-5.

[50] Bryant also points to his cooperation with police as favorable. But Bryant told police a different story than he offered the jury, and he initially refused to allow police into the apartment. His earlier lies about Nanny-Cole's whereabouts caused unnecessary distress for her loved ones. Thus, Bryant has failed to meet his burden of establishing that his sentence was inappropriate in light of the nature of his offense or his character.

IV. Conclusion

[51] As the trial court did not err by denying Bryant's motion to suppress and admitting the evidence seized during the police search of his apartment, we affirm Bryant's murder conviction. We also affirm Bryant's 60-year sentence, finding neither an abuse of the trial court's sentencing discretion nor an inappropriate sentence.

May, J., and Crone, J., concur.