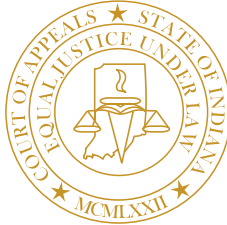


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Mark A. Knight,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

June 30, 2025

Court of Appeals Case No.
24A-CR-2889

Appeal from the Floyd Superior Court
The Honorable Maria D. Granger, Judge

Trial Court Cause No.
22D03-2405-F6-751

Memorandum Decision by Judge Weissmann
Judges Bailey and Brown concur.

Weissmann, Judge.

- [1] While charges were pending against Mark Knight for two separate incidents of drunk driving and driving with a suspended license, Knight drove without a valid license and with a blood alcohol content more than twice the legal limit. For this newest misconduct, Knight pleaded guilty to operating while intoxicated (OWI) as a Level 6 felony and admitted he was a habitual vehicular substance offender. The trial court sentenced Knight to 6 years in prison—well below the 10.5-year maximum that he was facing. Knight appeals this sentence as inappropriate in light the nature of the offense and his character. Given Knight’s seven prior drunk driving convictions and the many opportunities, including Veterans Court, that the judicial system had afforded him to achieve sobriety outside of prison, we affirm.

Facts

- [2] In both November and December 2023, Knight was arrested and charged with felony OWI and felony operating a vehicle while his license was suspended as a habitual traffic violator. While those prosecutions were still pending, a police officer in May 2024 initiated a traffic stop of Knight’s truck. Knight did not immediately stop but eventually pulled into a driveway. Upon approaching Knight, the officer observed that Knight’s eyes were bloodshot, his speech was slurred, his balance was unsteady, and he smelled of alcohol. Knight consented to a blood draw, which revealed a blood alcohol content of 0.186.

- [3] The State charged Knight with four offenses: (1) Level 6 felony operating a vehicle as a habitual traffic violator; (2) Class A misdemeanor OWI and endangering a person; (3) Class C misdemeanor OWI; and (4) Level 6 felony OWI with a prior conviction within the past seven years. The State also alleged that Knight was a habitual vehicular substance offender.
- [4] In August 2024, Knight pleaded guilty to the Level 6 felony OWI charge arising from the November 2023 incident and received a largely suspended sentence. Knight then entered into a plea agreement with respect to the May 2024 incident under which he would plead guilty to Level 6 felony OWI with a prior conviction and admit to being a habitual vehicular substance offender. In exchange for Knight's plea, the three remaining charges arising from his May 2024 arrest and all charges arising from the December 2023 incident would be dismissed. The agreement left sentencing open to the trial court.
- [5] The trial court approved the plea agreement and dismissed the remaining charges accordingly. Then, at sentencing, the trial court heard evidence about Knight's extensive history of alcohol abuse and driving offenses dating back to 1998, when he was 19 years old. Now 44 years old, Knight had accumulated seven prior OWI convictions and multiple convictions for driving while suspended. Knight had violated the terms of his probation in those cases at least twice.
- [6] Knight acknowledged his alcohol addiction and explained that some of it stemmed from his combat military service in Iraq and the resulting post-

traumatic stress disorder (PTSD). Knight is partially disabled as a result of his military service. Though Knight had previously completed Veterans Court programs during an earlier prosecution, he ultimately relapsed.

- [7] The trial court sentenced Knight to the maximum 2.5 years for the Level 6 felony OWI conviction and added 3.5 years for the habitual vehicular substance offender enhancement, resulting in an aggregate sentence of 6 years executed in the Department of Correction. The trial court specified that Knight could seek modification of his sentence to home detention with participation in Veterans Court after serving 75% of his executed sentence. Knight appeals his sentence.

Discussion and Decision

- [8] Knight claims that his sentence is inappropriate under Indiana Appellate Rule 7(B). This rule authorizes an appellate court to revise a sentence 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.” App. R. 7(B). We give “substantial deference” to the trial court’s sentencing decision, seeking “to leaven the outliers” rather than “achieve a perceived ‘correct’ sentence.” *Knapp v. State*, 9 N.E.3d 1274, 1292 (Ind. 2014) (citations omitted). Knight bears the burden of showing that his sentence is inappropriate. *Reid v. State*, 876 N.E.2d 1114, 1116 (Ind. 2007).

- [9] As to the nature of the offenses, “the advisory sentence is the starting point the Legislature selected as appropriate for the crime committed.” *Brown v. State*, 10 N.E.3d 1, 4 (Ind. 2014). A Level 6 felony OWI has a sentencing range of 6

months to 2½ years, with an advisory sentence of 1 year. Ind. Code § 35-50-2-7. The habitual vehicular substance offender enhancement adds between 1 and 8 years to the underlying sentence. Ind. Code § 9-30-15.5-2(d). Knight therefore faced a maximum possible sentence of 10½ years: 2½ years for the Level 6 felony plus 8 years for the enhancement. Knight’s aggregate 6-year sentence falls 4.5 years below the maximum available. Additionally, his sentence allows for modification after his completion of Veterans Court and execution of at least 75% of his sentence.

[10] As to the specifics of his offense, Knight operated his vehicle with a blood alcohol content of 0.186—more than twice the legal limit—while his license was suspended for being a habitual traffic violator. He did not immediately comply when an officer attempted to initiate a traffic stop. And at the time, Knight was facing charges for two separate incidents of similar misconduct allegedly committed during the prior six months. In fact, Knight’s behavior was part of a long pattern of driving while drunk and without a valid license. This behavior demonstrates a disregard for both the law and public safety.

[11] Knight’s extensive criminal history as a serial drunk driver reflects poorly on his character. *See Moss v. State*, 13 N.E.3d 440, 448 (Ind. Ct. App. 2014) (“Even a minor criminal history is a poor reflection of a defendant's character.”). Knight’s criminal history spans more than 25 years and includes eight OWI convictions (including that in the present appeal), two other OWI charges that were dismissed under plea agreements, and multiple convictions for driving on a suspended license. *See Brattain v. State*, 891 N.E.2d 1055, 1058 (Ind. Ct. App.

2008) (“[T]he significance of previous crimes varies based on the gravity, nature, and number of prior offenses as they relate to the current offense.”).

Five of Knight’s OWI convictions occurred within the last 10 years.

[12] Knight also has repeatedly driven while knowing his license was suspended and while being a habitual traffic violator. And when given a sentence of probation, rather than incarceration, for these OWI and driving while suspended convictions, Knight has repeatedly violated the terms of his probation.

[13] Knight argues that his alcohol addiction should be viewed as a disease rather than a character flaw, citing *Kovats v. State*, 982 N.E.2d 409, 417 (Ind. Ct. App. 2013). He notes his significant efforts at rehabilitation, including his participation in Veterans Court programs and completion of substance abuse education while incarcerated. These efforts demonstrate that, at times, Knight has recognized his need for treatment and attempted to address his addiction. His completion of 74 learning programs while in jail on the underlying charges is particularly noteworthy and shows a commitment to self-improvement.

[14] As with many veterans who have contact with the criminal justice system, Knight has been diagnosed with PTSD from his military service. His willingness to serve our country in a combat zone in Iraq demonstrates commendable character. Moreover, we recognize that PTSD can have profound and lasting impacts on veterans’ lives, often contributing to difficulties with substance abuse as veterans attempt to self-medicate the psychological wounds of war. *See* Emily R. Dworkin, Hannah E. Bergman, Thomas O.

Walton, Denise D. Walker, Debra L. Kaysen, *Co-Occurring Post-Traumatic Stress Disorder and Alcohol Use Disorder in U.S. Military Veteran Populations*, 39:2

ALCOHOL RES. 161, 161-69 (2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6561402> [<https://perma.cc/2TEU-9GNB>]. We agree with Knight that his struggle with severe alcohol addiction following his military service should be understood in this context.

[15] Although we acknowledge these mental health challenges, Knight has made repeated decisions to drive while intoxicated—despite multiple opportunities for treatment both through the courts and through the Veterans Administration. He has been arrested for OWI ten times, leading to eight separate OWI convictions. He committed the present offenses while two other prosecutions for similar misconduct filed during the previous six months were pending against him.

[16] Before this latest prosecution, neither modest sentences that incorporate treatment and probation nor his participation in the intensive, individualized Veterans Court program managed to deter his misconduct. He violated the terms of his probation in at least two prosecutions. In other prosecutions, probation violation allegations led to termination of his probation. Most notably, after completing the Veterans Court program and several courses of treatment through the Veterans Administration, Knight has continued to drive while intoxicated. This demonstrates that prior efforts at rehabilitation have not reformed his behavior which continues to risk the safety of his community.

- [17] Although we consider Knight's honorable military service as a positive reflection on his character, we must consider this with his decades-long pattern of addictive behavior that began even before his military service. The latter demonstrates his persistent and alarming disregard for public safety and the law.
- [18] Our role on appeal is to determine whether Knight has shown his sentence to be inappropriate. *See* App. R. 7(B). Based on this record, and after carefully considering Knight's military service, PTSD, and habitual pattern of criminality flowing from his addictions, we cannot find that Knight has met his burden of proving that his mid-range sentence of six years is inappropriate. We therefore affirm the trial court's sentence.
- [19] Affirmed.

Bailey, J., and Brown, J., concur.

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