

## 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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Rene Apolonio Pedraza,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

June 13, 2022

Court of Appeals Case No.  
22A-CR-90

Appeal from the  
Clinton Superior Court

The Honorable  
Justin H. Hunter, Judge

Trial Court Cause No.  
12D01-2104-F5-448

**Vaidik, Judge.**

## Case Summary

- [1] Rene Apolonio Pedraza appeals his sentence for domestic battery resulting in serious bodily injury, a Level 5 felony. We affirm.

### Facts and Procedural History

- [2] In April 2021, Pedraza contacted his mother-in-law, Julie Waggoner, for her assistance in painting a spare upstairs bedroom in the home he shared with his wife (Waggoner's daughter) in Frankfort. Pedraza told Waggoner "he would leave the door unlocked" so she could come over to determine what color to paint the bedroom. Tr. p. 19. Waggoner thought this was "strange" because Pedraza "never left anything unlocked," and unnecessary because Waggoner had a key to the home. *Id.* Nonetheless, Waggoner told Pedraza she would come and paint the bedroom.
- [3] On April 12, Waggoner arrived at the home, carried in her supplies, used the restroom, and then entered the bedroom to begin work. There, Pedraza came up behind Waggoner, put a jacket over her head, put his arm around her neck, and applied pressure. After a brief struggle, Waggoner lost consciousness. Pedraza left the home, drove away, parked briefly, and then returned home and called 911.
- [4] When authorities arrived, they saw Waggoner on the floor with "significant" bruising and swelling on her face and "a small puddle of blood" beneath her head. Appellant's App. Vol. II p. 15. EMS transported Waggoner to an

emergency room while police spoke with Pedraza. Pedraza reported he came home and found Waggoner “on the bed, face up no[t] responsive . . . with a pillow over her chest area.”<sup>1</sup> *Id.*

[5] Later that day, Pedraza admitted to his wife and mother that he attacked Waggoner. That evening, a detective interviewed Pedraza and asked “why he would [attack Waggoner.]” Tr. p. 28. Pedraza answered that “he was on red alert all the time” and mentioned feeling “despair” and not “mentally be[ing] there.” *Id.*

[6] The State charged Pedraza with Count I: Level 5 felony domestic battery resulting in serious bodily injury (for “grabbing” Waggoner around her neck, resulting in unconsciousness); Count II: Level 6 felony strangulation; and Count III: Class A misdemeanor domestic battery (for “grabbing” Waggoner around her neck). Appellant’s App. Vol. II pp. 11-13. Pedraza pled guilty to Counts I and II, with sentencing left to the trial court’s discretion. The State dismissed Count III.

[7] At the sentencing hearing, Detective Eric Booth of the Frankfort Police Department testified about the changes in Pedraza’s story. Maria Pedraza, Pedraza’s mother, testified to her son’s character, upbringing, and work history and described his eight-year abuse of anabolic steroids. Waggoner’s victim-impact statement was read. Waggoner described her attack and its aftereffects—

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<sup>1</sup> The record indicates dispatch directed Pedraza to move Waggoner from the bed to the floor.

depression, nightmares, grief, and the loss of her independence. Pedraza expressed remorse for his actions, admitted to illegal drug use (anabolic steroids and marijuana), claimed issues with mental health (depression, anxiety, ADD, bi-polar, PTSD, drug-induced psychosis), and vowed “to make amends whatever that looks like.” Tr. pp. 43-44.

[8] The trial court found four aggravating factors: (1) the premeditation of the attack; (2) the victim’s vulnerability due to her age and being physically weaker than him; (3) the apparent attack on Waggoner after she lost consciousness resulting in significant injury to her head and face; and (4) leaving the victim. The court identified Pedraza’s lack of criminal history as a mitigating factor but said it was giving that factor little weight because of Pedraza’s admitted illegal drug use. The court stated it did not find Pedraza’s statement of remorse sincere and noted Pedraza had a history of manipulation. *Id.* at 53. The court sentenced Pedraza to five years in the Department of Correction, with four years to serve and one year suspended to probation, for Count I. The court did not enter a conviction on Count II due to double-jeopardy concerns.

[9] Pedraza now appeals.

## Discussion and Decision

### I. Aggravators

[10] Pedraza first challenges the trial court’s finding of aggravating factors. Sentencing decisions rest within the sound discretion of the trial court and are

reviewed on appeal for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007). A trial court abuses its discretion when the result it reaches is “clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.” *Id.* An abuse of discretion may occur when the trial court finds aggravating factors not supported in the record. *Id.*

[11] Pedraza argues the trial court abused its discretion by finding that he attacked Waggoner after she lost consciousness. But this is a reasonable inference from the facts and circumstances before the court. Waggoner did not recall being hit by Pedraza. Tr. p. 21. Waggoner’s injuries, however, included bleeding, bruising, and swelling to the left side of her face, which lasted for weeks after the attack. *Id.* Therefore, Waggoner stated that “[Pedraza must] have hit [her] while [she] was unconscious.” *Id.* Further, whether the injuries came before or after Waggoner was unconscious is of no consequence. It is sufficient that the injuries Waggoner sustained—bleeding, bruising, and swelling of her head—exceeded the harm required for conviction—Waggoner’s loss of consciousness. *See* Ind. Code § 35-38-1-7.1(a)(1)(B) (identifying as an aggravating circumstance “[t]he harm, injury, loss, or damage suffered by the victim of an offense was: (A) significant; and (B) greater than the elements necessary to prove the commission of the offense”). We find no abuse of discretion.

[12] Next, Pedraza contends the trial court took “great liberty” with the record to find him manipulative and that the court’s reliance on that finding was

improper. Appellant’s Br. p. 7. While the court did find Pedraza to be manipulative, it did not cite that as an aggravator. Tr. p. 52. Rather, the court was commenting on Pedraza’s character and attitude toward future criminal activity. *Id.* In any event, the court’s finding of manipulation has great support in the record. First, Pedraza gave different accounts of the attack on Waggoner. He originally told police he found Waggoner; he later admitted to attacking her. Appellant’s App. Vol. II pp. 15, 17. Second, Pedraza underwent a psychological evaluation. His psychological test was administered twice because the first result was “considered invalid” and the second result was “may be invalid,” which the test administrator attributed to intentional overreporting. *Id.* at 64. Third, Pedraza lied to his mother about his steroid use. Maria Pedraza knew her son had used anabolic steroids in the past; however, she believed—based on her son’s word—he had stopped using. Tr. p. 39. Not until after the attack on Waggoner did Pedraza admit to using again. *Id.* Because the evidence in the record supports the court’s finding, we find no abuse of discretion.

## II. Inappropriate Sentence

[13] Pedraza also argues his sentence is inappropriate in light of the nature of the offense and his character. Indiana Appellate Rule 7(B) provides that an appellate 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.” The court’s role under Rule 7(B) is to “leaven the outliers,” and “we

reserve our 7(B) authority for exceptional cases.” *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019). “Whether a sentence is inappropriate ultimately turns on the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case.” *Thompson v. State*, 5 N.E.3d 383, 391 (Ind. Ct. App. 2014) (citing *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008)). Because we generally defer to the judgment of trial courts in sentencing matters, defendants must persuade us that their sentences are inappropriate. *Schaaf v. State*, 54 N.E.3d 1041, 1044-45 (Ind. Ct. App. 2016).

[14] The sentencing range for a Level 5 felony is one to six years, with an advisory sentence of three years. I.C. § 35-50-2-6. The trial court sentenced Pedraza to an above-advisory term of five years, with four years to serve and one year suspended to probation. Pedraza asks us to revise his sentence to three years with one year suspended to probation and to assign his case to the Recovery While Incarcerated program.<sup>2</sup>

[15] Pedraza argues that the nature of his offense does not warrant his above-advisory sentence because “there was nothing that made this offense any worse than any [other Level 5 felony domestic battery resulting in serious bodily

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<sup>2</sup> Pedraza structures his inappropriateness argument based on *Gibson v. State*, where we held, “We will assess the trial court’s recognition or nonrecognition of aggravators and mitigators as an initial guide to determining whether the sentence imposed here was inappropriate.” 856 N.E.2d 142, 147 (Ind. Ct. App. 2006). This view of 7(B) was rejected by our Supreme Court in *Anglemeyer*. See *Turkette v. State*, 151 N.E.3d 782, 787 n.5 (Ind. Ct. App. 2020), *trans. denied*.

injury].” Appellant’s Br. p. 11. We disagree. Pedraza premeditated his attack on Waggoner. Waggoner sustained significant injuries to her head and face in excess of the elements required to sustain Pedraza’s conviction (unconsciousness). Further, Waggoner stated that the attack robbed her of her independence. Tr. p. 23. She reported being “afraid to be anywhere alone” and feeling “like a child that is very vulnerable.” *Id.* at 21, 23.

[16] As for his character, Pedraza points to his lack of criminal history. But as the trial court noted, Pedraza admitted to continuous illegal drug use, which is criminal activity—regardless of a formal criminal conviction. Also, Pedraza was not forthcoming about his role in the attack. Instead, he lied to dispatch and police and he lied to his mother about his illegal steroid use. Pedraza’s lies reflect poorly on his character.

[17] Pedraza has failed to persuade us his sentence is inappropriate.

[18] Affirmed.

Crone, J., and Altice, J., concur.