

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Chelsie Renee Mann,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 24, 2023

Court of Appeals Case No.
23A-CR-567

Appeal from the Henry Circuit Court
The Honorable David L. McCord,
Judge

Trial Court Cause No.
33C03-2202-F6-42

Memorandum Decision by Chief Judge Altice
Judges May and Foley concur.

Altice, Chief Judge.

Case Summary

[1] In August 2022, Chelsie Renee Mann pleaded guilty to Level 6 felony operating a vehicle while intoxicated (OWI) while endangering a person. Mann was sentenced to two and one-half years executed at the Indiana Department of Corrections (DOC) with one year suspended. On appeal, Mann argues that the trial court inappropriately sentenced her in light of the nature of the offense and character of the offender.

[2] We affirm.

Facts and Procedural History

[3] On December 30, 2021, Mann was stopped by police after reportedly running several stop signs, yelling at another driver, and swerving onto a curb at least once. When he approached Mann, Officer Nicholson observed that Mann slurred her words and smelled strongly of alcohol. Mann then failed several field sobriety tests. She was arrested for OWI in a manner endangering a person, a Level 6 felony, operating a vehicle with an ACE of .08 or more, but no less than .15, a Class C misdemeanor, and public intoxication, a Class B misdemeanor. On August 17, 2022, while out on bond, Mann was charged with domestic battery, a Level 6 felony, and disorderly conduct, a Class B misdemeanor.

[4] On August 29, 2022, Mann entered into a plea agreement wherein she pleaded guilty to the Level 6 felony OWI charge, and the State dismissed the remaining

charges under both prior criminal matters. Sentencing was left to the trial court's discretion.

[5] At the sentencing hearing on February 13, 2022, the trial court considered mitigating factors such as Mann's mental health issues, being in treatment, and holding steady employment for almost three years. The court also considered aggravating factors such as Mann's criminal history, which included two prior OWI convictions, possession of methamphetamine, failure to remain in good standing while on probation more than once, and committing new crimes while on bond. The trial court found that the aggravators outweighed the mitigators and sentenced Mann to two and one-half years in the DOC with one year suspended.

[6] Mann now appeals. Additional information will be provided below as needed.

Discussion and Decision

[7] Mann argues that her sentence was inappropriate in light of the nature of the offense and character of the offender. Pursuant to Ind. Appellate Rule 7(B), this court may revise a sentence, if, after due consideration of the trial court's decision, we find that the sentence is inappropriate in light of the nature of the offense and the character of the offender. Sentencing review under App. R. 7(B) is deferential to the trial court's decision, and we avoid merely substituting our judgment for that of the trial court. *Golden v. State*, 862 N.E.2d 1212 (Ind. Ct. App. 2007). The principal role of App. R. 7(B) review is to "attempt to leaven the outliers, and identify some guiding principles for trial courts and those

charged with improvement of the sentencing statutes, but not to achieve the perceived ‘correct’ result in each case.” *Cardwell v. State*, 895 N.E.2d 1219 (Ind. 2008). The question at hand is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate. *King v. State*, 894 N.E.2d 2265 (Ind. Ct. App. 2008).

[8] Whether a sentence is inappropriate 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. *Cardwell*, 895 N.E.2d at 1224. In order to persuade us that a sentence is inappropriate, the defendant must show that her sentence was inappropriate with “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).

[9] Mann’s central argument is that she did not deserve what was essentially the maximum sentence for a Level 6 felony because of the nature of the offense. She additionally argues that, despite her prior convictions, her character was improving through treatment, expressions of remorse, and steady employment.

[10] According to Ind. Code § 35-50-2-7(b), “[a] person who commits a Level 6 felony shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 ½) years, with the advisory sentence being one (1) year.” In this case, while the trial court sentenced Mann to the maximum term, it suspended

one year of her sentence to probation, see *Davidson v. State*, 926 N.E.2d 1023, 2015 (Ind. 2010) (rejecting claim that on App. R. 7(b) review, the reviewing court may only consider the length of the sentence without regarding to whether any portion of it was suspended).

[11] “The nature of the offense is found in the details and circumstances of the offenses and the defendant’s participation therein.” *Madden v. State*, 162 N.E.3d 549, 564 (Ind. Ct. App. 2021). Here, the evidence showed that Mann was seen driving erratically through a populated area in the middle of the afternoon. She came into contact with at least one other motorist and yelled at him before and after running several stop signs. Her offense was more egregious than a typical OWI for these reasons and this was her third OWI offense. In short, Mann has failed to paint a picture of her offense in a positive way.

[12] As to Mann’s character, it is well settled that a defendant’s criminal history is relevant in assessing her character. *Rutherford v. State*, 866 N.E.2d 867, 874-875 (Ind. Ct. App. 2007). The significance of a criminal history varies based on gravity, nature, and number of prior offenses. *Id.* Mann has two prior convictions for OWI and a prior methamphetamine possession conviction. Additionally, Mann has been given several opportunities to correct her behavior and seek treatment for her alcohol addiction, but she has continued to commit new crimes and violate her probation.

[13] For these reasons, Mann's argument that the trial court inappropriately sentenced her in light of the nature of the offense and character of the offender fails.

[14] We affirm.

May, J. and Foley, J., concur.