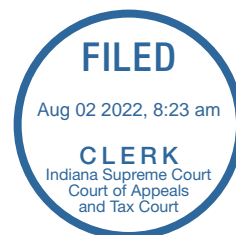


MEMORANDUM DECISION

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

Jefferson R. Griffin,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

August 2, 2022
Court of Appeals Case No.
19A-CR-1444
Appeal from the
Rush Circuit Court
The Honorable
David E. Northam, Judge
Trial Court Cause No.
70C01-1612-F5-1094

Vaidik, Judge.

Case Summary

- [1] Jefferson R. Griffin appeals his forty-six-year sentence for a variety of child-molesting offenses, arguing the trial court erred in applying multiple enhancements to his sentence and ordering those enhancements to run consecutively. We agree and therefore reverse and remand.

Facts and Procedural History

- [2] In 2016, N.M., who was fifteen years old, told her mother that Griffin, an adult family friend, had touched her inappropriately on several occasions. N.M. and her ten-year-old sister A.M. submitted to forensic interviews. In the interviews, N.M. stated Griffin had touched her vagina and breasts under her clothes and A.M. stated Griffin had touched her breasts and butt.
- [3] The State charged Griffin with Level 5 felony sexual misconduct with a minor, Level 6 felony battery on a person less than fourteen years old, Level 5 felony sexual misconduct with a minor, and Level 4 felony child molesting.¹ The State also charged Griffin as a repeat sexual offender, based on a 1997 conviction for Class B felony sexual misconduct with a minor, and as a habitual offender, based on a 1979 conviction for Class B felony voluntary manslaughter and a 2008 conviction for Class D felony failure to register as a sex or violent

¹ The State also charged Griffin with Level 6 felony battery resulting in moderate bodily injury, but that charge was dismissed before trial at the request of the State.

offender. At a bifurcated trial, a jury found Griffin guilty of the underlying counts and found him to be a repeat sexual offender and habitual offender.

[4] The trial court sentenced Griffin to 212 days (amounting to time served) for the Level 6 felony, five years for each of the Level 5 felonies, and ten years for the Level 4 felony, to be served consecutively. The court then enhanced Griffin’s Level 4 felony sentence by twenty years due to his status as a habitual offender and by six years based on his status as a repeat sexual offender, also to be served consecutively, for an aggregate sentence of forty-six years.

[5] Griffin now appeals.

Discussion and Decision

[6] Griffin argues the trial court erred in enhancing his sentence for Level 4 felony child molesting based on both his habitual-offender status and repeat-sexual-offender status and ordering the sentences be served consecutively. The State concedes this was an impermissible double enhancement, and we agree.

[7] “It has long been established that double enhancements are not permissible unless there is explicit legislative direction authorizing them.” *Dye v. State*, 972 N.E.2d 853, 856 (Ind. 2012). Our Supreme Court has noted three types of enhanced sentencing schemes for recidivist offenders: the general habitual-offender statute, specialized habitual-offender statutes, and progressive-penalty statutes. *Id.* at 857. The repeat-sexual-offender statute is a specialized habitual-offender statute. *Id.* Double-enhancement issues arise where more than one of

these statutes is applied to the defendant at the same time. *Id.* Additionally, a court may not, absent express statutory authority, impose consecutive enhanced sentences. *Breaston v. State*, 907 N.E.2d 992, 995 (Ind. 2009).

[8] Here, the trial court enhanced Griffin’s sentence for Level 4 felony child molesting by twenty years for his habitual-offender status and six years for his repeat-sexual-offender status and ordered the sentences to be served consecutively. As there is no express statutory “authorization for stacking general and specialized habitual offender enhancements,” we agree with the parties that this was an error. *Young v. State*, 57 N.E.3d 857, 861 (Ind. Ct. App. 2016) (holding trial court could not apply both a habitual-offender enhancement and repeat-sexual-offender enhancement to same conviction and run the sentences consecutively), *reh’g denied, trans. denied*. Accordingly, we remand to the trial court with instructions to either vacate one of the enhancements or attach one of the enhancements to another conviction and run the sentences concurrently.

[9] Reversed and remanded.

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