

## 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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Carlos Maliek Desean Neal,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

March 30, 2022

Court of Appeals Case No.  
21A-CR-1920

Appeal from the Madison Circuit  
Court

The Honorable David A. Happe,  
Judge

Trial Court Cause No.  
48C04-2009-F1-2281

**Weissmann, Judge.**

[1] Carlos Neal molested his five-year-old daughter, E.N., and his girlfriend's three-year-old daughter, A.P. He was convicted of two counts of Level 1 felony child molesting and sentenced to 45 years' imprisonment on each count, to be served concurrently. On appeal, Neal argues that his aggregate 45-year sentence is inappropriate in light of the nature of his offenses and his character. We disagree and affirm.

## Facts

[2] In July 2020, police were called to a local hospital to investigate a three-year-old girl, A.P., testing positive for gonorrhea. A.P.'s mother and her twenty-eight-year-old boyfriend, Neal, both denied knowing how A.P. contracted the sexually transmitted disease. But when police forensically interviewed A.P., she "described herself as being touched in her vaginal area and said that a monster put his wiener inside her mouth." Tr. Vol. II, p. 28. Neal subsequently tested positive for gonorrhea as well.

[3] Police interviewed Neal three times over the course of their investigation. During the first interview, Neal denied any sexual conduct with A.P. and stated that, if he gave her gonorrhea, "it was through normal bathing and washing and care taking of the child." *Id.* at 29. During his second interview, Neal added that he once used his finger to remove a bead from A.P.'s vagina. However, he later admitted that "he had fingered [A.P.] while he was intoxicated and horny." Appellant's Br. p. 6; *see* App. Vol. II, pp. 14-15.

- [4] After Neal’s second interview, police forensically interviewed Neal’s five-year-old daughter, E.N., who also described being molested. E.N. disclosed that, while she and A.P. were lying naked on a bed, “[Neal] took his hands and touched their private parts and . . . made them touch his penis.” Tr. Vol. II, p. 28. E.N. also said that “she saw pee coming out of [Neal’s penis],” adding that “she did not swallow it but A.P. did.” *Id.*
- [5] During Neal’s third interview with police, he confessed to molesting E.N. and A.P. at the same time and in multiple ways. The State subsequently charged him with two counts of Level 1 felony child molesting. Pursuant to a plea agreement, Neal pleaded guilty to both counts in exchange for the State’s recommendation that the trial court issue concurrent sentences. Sentencing was otherwise left to the trial court’s discretion. The trial court sentenced Neal to 45 years’ imprisonment on each count, to be served concurrently.

## Discussion and Decisions

- [6] On appeal, Neal challenges his aggregate 45-year sentence under Indiana Appellate Rule 7(B). That rule permits an appellate court to revise a sentence if, “after due consideration of the trial court’s decision, the sentence is found to be inappropriate in light of the nature of the offense and the character of the offender.” Ind. Appellate Rule 7(B). In reviewing the appropriateness of a sentence, our principal role is to attempt to leaven the outliers, not to achieve a perceived “correct” sentence. *Knapp v. State*, 9 N.E.3d 1274, 1292 (Ind. 2014).

We therefore give “substantial deference” to the trial court’s sentencing decision. *Id.*

- [7] The sentencing range for a person convicted of Level 1 felony child molesting against a victim less than twelve years old is between 20 and 50 years, with an advisory sentence of 30 years. Ind. Code § 35-50-2-4(c)(1). Neal was sentenced to aggravated but concurrent terms of 45 years for his two Level 1 felony convictions. This aggregate 45-year sentence is 15 years more than the advisory sentence and 5 years less than the maximum. With this in mind, we turn to the nature of Neal’s offenses.
- [8] At his guilty plea hearing, Neal admitted that “he had fingered both [A.P. and E.N.],” “the girls had played with his penis,” and “he had had the girls perform oral sex on him where he ejaculated . . . on or in their mouths.” Tr. Vol. II, p. 29. “[Neal] also admitted to putting his penis between [the girls’] legs,” which he believes is how A.P. contracted gonorrhea. *Id.*
- [9] Acknowledging the heinousness of his crimes, Neal relies solely on his character in arguing that his sentence is inappropriate. He emphasizes his confession and guilty plea as evidence of good character, but his decision to come clean appears to have been one of pragmatism rather than morality. Neal initially denied any sexual conduct with A.P., twice tried to explain away her gonorrhea, and only confessed to molesting her and E.N. after the children disclosed that the molesting occurred.

[10] Neal also received a significant benefit—concurrent sentences—in exchange for his guilty plea. And the record indicates that he did not take responsibility for his actions, even after pleading guilty. According to his presentence investigation report (PSI): “When asked his version of the Instant Offense [Neal] replied, ‘I don’t really remember. Half the sh\*t I made up anyway. . . . I told them what they wanted to hear, I guess.’” App. Vol. II, p. 87.

[11] Neal highlights that he has no prior criminal convictions, which is true. But his PSI reveals several misdemeanor charges over the last ten years, including charges for battery, criminal mischief, resisting law enforcement, disorderly conduct, and intimidation. Neal also points to his “young” age, prior pursuit of a college education, and positive employment history as reasons why his aggregate 45-year year sentence is too harsh. Appellant’s Br. p. 9. These factors alone do not persuade us that a revised sentence is warranted.

[12] Considering Neal’s distinct, despicable acts, the tender ages of his victims, his abuse of their trust and care, and the fact that he transmitted gonorrhea to a three-year-old child, we conclude that Neal’s aggregate 45-year sentence is not inappropriate in light of his offenses and his character. The judgment of the trial court is affirmed.

Najam, J., and Vaidik, J., concur.