MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jason Lee Collins,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 21, 2022

Court of Appeals Case No. 21A-CR-1617

Appeal from the St. Joseph Superior Court

The Honorable Stephanie E. Steele, Judge

Trial Court Cause No. 71D01-1910-F5-247

Tavitas, Judge.

Case Summary

[1] Following a jury trial, Jason Lee Collins was convicted of reckless homicide, a Level 5 felony. The trial court sentenced Collins to four years executed in the Department of Correction. Collins appeals and claims that the State committed prosecutorial misconduct and failed to rebut his claim of self-defense. Collins also claims that the trial court abused its discretion in sentencing him. Concluding that none of these claims have merit, we affirm.

Issues

I. Whether the deputy prosecuting attorney committed misconduct by failing to give Collins notice of the intent to introduce evidence that Collins claims implicated Indiana Evidence Rule 404(b).

II. Whether the State presented evidence sufficient to rebut Collins's claim of self-defense.

III. Whether the trial court abused its discretion in sentencing Collins.

Facts

[2] In the fall of 2019, Diane Schubert lived in a house on Marine Street in South Bend, Indiana, with her sixteen-year-old son, Z.S., her seventeen-year-old son, D.S., and her cousin, Collins. On the evening of September 28, 2019, Schubert and Collins went to a nearby bar with Joseph Snyder, who is also Schubert's cousin, and his son, Trey Martinez. After having a few drinks at the bar, the party went back to Schubert's house, where they drank beer. As the night

progressed, Collins and Martinez left to take Snyder to Snyder's girlfriend's house. Collins and Martinez returned to Schubert's home to continue drinking.

[3] By early morning, Martinez began to flirt with Schubert in front of Collins. Martinez went so far as to expose his penis to Schubert. In response, Schubert exposed "the top" part of her breast to Martinez. Tr. Vol. III p. 86. At some time between 7:00 a.m. and 8:00 a.m., Martinez loudly claimed to have a "shank" in his pocket and stated that he could "light up" the block with a phone call. Tr. Vol. II p. 228. Martinez eventually lunged at Collins, and they began to physically struggle. The commotion awakened D.S., who came out of his bedroom and observed the two men "scuffling" on the floor. *Id.* at 215. As Martinez held Collins down on the floor, Collins stabbed Martinez in the throat. Martinez then got up and, holding his hand to his neck, ran out the door.

[4] The fight also awakened Z.S., who went downstairs to investigate the commotion. Z.S. observed "a lot of blood" and saw Collins standing in the dining room with blood on his shirt. *Id.* at 197-98. He saw his mother, Schubert, "freaking out." *Id.* at 187. Z.S. also observed blood on the floor and walls of the dining room and bloodstains on a chair. The furniture was also in disarray. Z.S. told Schubert that they should call the police, but Schubert told Z.S. that Martinez was "fine, because he had ran [sic] out of the house." *Id.* at 200.

[5] Schubert instructed her sons to help clean up the blood. Collins heeded Schubert's request to take a shower so as to not spread the blood further around the house, after which he and Schubert left. The pair eventually went to a restaurant to drink coffee, then went to Schubert's mother's home. They did not tell anyone about the incident with Martinez.

[6] Meanwhile, Desmoneek Smith, who lived near Schubert's home, arrived home after work and fell asleep in her car.[1] When Smith awoke, she noticed something lying in the street. Smith walked in the direction of the object and realized that it was a person, later identified as Martinez, lying face down in the street. Smith called 911.

[7] When first responders arrived, they observed that Martinez had a large stab wound in his neck and was deceased. Detectives soon located blood on the front door of Schubert's house and on the driver's side door of a car parked in front of Schubert's home, a car that was later determined to belong to Martinez. The police entered Schubert's home to determine if anyone else had been injured or needed aid, but they found only D.S. and Z.S. The police removed the youths from the home and then applied for and received a warrant to search Schubert's home and Martinez's vehicle.

[8] During the execution of the search warrant, the police discovered a large amount of blood in Schubert's house, including in the kitchen and in a tote

[1] Smith stayed in her car because the power was out at her house.

where blood-spattered items had been placed. There was blood on the walls and in a chair. A trail of blood led from the kitchen to the front door. The police also found the knife Collins used to stab Martinez lying on a table with blood still on it. The police found recently washed clothing in the laundry room. A search of Martinez's car revealed two metal shanks, but no weapons were found on his body; nor was there any blood on the inside of the car or the trunk, where the shanks were located.

[9] Eventually, the police located Schubert and Collins at the home of Schubert's mother. Neither Collins nor Schubert ever mentioned to the police the confrontation between Martinez and Collins or that Collins had stabbed Martinez. Snyder, Martinez's father, then arrived at Schubert's mother's home while the police were still there. Schubert became upset and told Snyder, in front of the police, that Martinez should not have attacked Collins.

[10] The forensic pathologist, who performed the autopsy on Martinez's body, determined that Martinez suffered a large stab wound in the right front of his neck. The pathologist concluded that the knife penetrated the skin and soft tissue, cutting the jugular vein, the thyroid gland, the thyroid artery, and striking the bone of one of the cervical vertebrae, all of which would have required significant force. Martinez had some abrasions on his knee and right elbow but had no defensive wounds. DNA testing of the material found under

the fingernails of Martinez's right hand matched Collins. It was further determined that Martinez had recently consumed alcohol and marijuana.[2]

[11] On September 29, 2019, the State charged Collins with one count of reckless homicide, a Level 5 felony.[3] A three-day jury trial commenced on June 1, 2021. During Collins's case-in-chief, Schubert testified that Martinez choked Collins during the struggle. Despite the large amount of blood in her home, Schubert claimed that she did not know the severity of Martinez's injuries, stating: "I thought he went home and put a bandage on . . . ." Tr. Vol. III p. 81.

[12] The State impeached Schubert's credibility by noting inconsistencies between her statement to the police and her trial testimony. For example, Schubert told the police that she was flirting back with Martinez, but then, while testifying, Schubert denied flirting with Martinez. Schubert also told the police that the flirting had angered Collins, which she denied at trial. Schubert also claimed that there was no blood in her house when she left, which was contrary to the testimonial and photographic evidence presented by the State.

[13] The State then asked Schubert, "[a]nd your relationship with Mr. Collins, that was a sexual relationship, correct?" Tr. Vol. III p. 87. Collins's counsel objected and asked to approach the bench, where he claimed that this question

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[2] Also present in Martinez's blood was an inactive metabolite of cocaine, but no parent compound was found, indicating that the use of cocaine had occurred sometime prior to death.

[3] The State also charged Schubert with assisting a criminal, a Level 6 felony.

ran afoul of Indiana Evidence Rule 404(b) and requested a mistrial. The State countered that the question did not imply any "bad acts" as contemplated by Evidence Rule 404(b). The trial court sustained the objection, and Schubert never answered the question. Collins did not move to strike the question or request an admonishment. The State then continued to impeach Schubert's credibility by noting that, contrary to her trial testimony, she told the police that she did not attempt to separate Collins and Martinez.

[14] At the conclusion of the trial, the court instructed the jury on the defense of self-defense. The jury rejected this defense and found Collins guilty as charged of reckless homicide.

[15] At the sentencing hearing held on June 29, 2021, Collins argued that there were several mitigating factors, including: (1) imprisonment would result in a hardship on his dependent; (2) he had a steady work history; (3) he had no prior criminal history; (4) and Martinez had induced or facilitated the offense by his actions and threats. The State asked that the trial court consider the specific facts and circumstances of the crime as aggravating, including that Collins declined to call the police or attempt to check on Martinez and instead washed his clothes and left the scene. The State also noted that the offense was committed in the presence of two minor children, who were then asked to assist in cleaning up the scene of the crime.

[16] When pronouncing its sentencing decision, the trial court stated:

> Mr. Collins, I do take into consideration all of the mitigators that your attorney has mentioned. I do take into consideration that you don't have a criminal history. That's most significant. But I also look at the aggravators that the State mentioned and the fact, Mr. Collins, that you did end someone's life.
>
> I, also, would say you can't have it both ways. Where I take some of the testimony and facts that were brought up at trial into consideration but then not others. And so, [the deputy prosecuting attorney] does have a point in that there were minors present and that the minors were the people who were tasked with cleaning up blood.
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> Mr. Martinez was not present at trial. Unable to give his rendition of what happened that day, but that was due to the fact that he was no longer on this earth due to your actions.
>
> Your attorney is correct that the legislature has made this a Level 5 Felony and the sentencing range is from one (1) to six (6) years. And so, I must sentence you between one (1) to six (6).
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> I do take into consideration also, Mr. Collins, that you've showed no remorse.
>
> I do think that we as human-being[s] are more than the worse thing we've ever done, but here, sir, you've showed no remorse. And children cleaned up this scene. And the amount of force that was used to create that injury in Mr. Martinez's neck . . . would have caused a weapon to touch his bone. The amount of force used there was significant, sir.

Sup. Tr. p. 16-17. The trial court sentenced Collins to four years in the Department of Correction. Collins now appeals.

Analysis

I. Prosecutorial Misconduct

[17] Collins argues that the deputy prosecuting attorney committed misconduct when she asked Schubert whether the relationship between Schubert and Collins was sexual in nature.

> When reviewing a claim of prosecutorial misconduct, we must determine whether the prosecutor: (1) engaged in misconduct that, (2) under all of the circumstances, placed the defendant in a position of grave peril to which he or she would not have been otherwise subjected. Whether a prosecutor's argument constitutes misconduct is measured by reference to case law and the Rules of Professional Conduct. We measure the weight of the peril by the probable persuasive effect of the misconduct on the jury rather than the degree of impropriety of the conduct.

Combs v. State, 150 N.E.3d 266, 279 (Ind. Ct. App. 2020), *aff'd in relevant part*, 168 N.E.3d 985 (Ind. 2021), *cert. denied* (citations and internal quotation marks omitted).

[18] Although Collins frames his argument as one of prosecutorial misconduct, his argument is premised on a claim that the question was improper under Indiana Evidence Rule 404(b). This rule provides in relevant part:

> **(b) Crimes, Wrongs, or Other Acts.**
>
> (1) Prohibited Uses. Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

> (2) Permitted Uses; Notice in a Criminal Case. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. On request by a defendant in a criminal case, the prosecutor must:
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> (A) provide reasonable notice of the general nature of any such evidence that the prosecutor intends to offer at trial; and
>
> (B) do so before trial-or during trial if the court, for good cause, excuses lack of pretrial notice.

Ind. Evidence Rule 404(b). Additionally, St. Joseph Local Criminal Rule 305.3 requires either party to submit notice of intent to introduce evidence under Evidence Rule 404(b).[4]

[19] Collins argues that a sexual relationship with one's cousin is a "bad act" under Evidence Rule 404(b) and that the State was, therefore, required to give him pre-trial notice of any intent to introduce any evidence of a sexual relationship between Schubert and Collins. The failure to do so, Collins argues, amounted to prosecutorial misconduct. The initial problem with Collins's argument is that the trial court *sustained* his objection to the State's question, and Schubert never answered the question. Thus, there was no violation of Rule 404(b).

[20] Still, Collins argues that, despite the trial court's favorable ruling, "it would be impossible to reverse the damage. Once the jury heard this question, it would

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[4] This rule provides: "Notice Required. Each side, within the time allowed for compliance with discovery under this Rule, shall provide the other with notice of its intent to introduce evidence pursuant to Indiana Rule of Evidence 404(b), 609(b), or any other Rule which requires notices as a prerequisite to the admission of evidence." St. Joseph LR71-CR00 Rule 305.3.

be impossible to un-ring the bell."[5] Appellant's App. p. 18. In other words, Collins argues that merely asking the question constituted prosecutorial misconduct.

[21] Here, we cannot say the deputy prosecuting attorney engaged in misconduct. At most, the deputy prosecuting attorney asked Schubert a question that implicated Evidence Rule 404(b). The trial court sustained the objection, and Schubert never answered the question.

[22] Nor can we agree with Collins that he was placed in a position of grave peril to which he should not have been submitted due to the question posed. *See Schmanski v. State*, 270 Ind. 331, 335, 385 N.E.2d 1122, 1125 (1979) ("[W]e fail to see how the defendant was placed in a position of grave peril by the State's question, since the witness never answered the question."). Under these facts and circumstances, we cannot say that Collins was subject to grave peril. *See Carter v. State*, 686 N.E.2d 834, 836 (Ind. 1997) (holding that, although prosecutor's question to defendant regarding his prior conviction was "concededly improper," the defendant was not placed in grave peril because,

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[5] The State counters that Collins waived this issue for purposes of appellate review by failing to request an admonishment. Our Supreme Court has held that "[t]o preserve a claim of prosecutorial misconduct, the defendant must ask the trial court, at the time the misconduct occurs, to admonish the jury or move for a mistrial if admonishment is inadequate." *Castillo v. State*, 974 N.E.2d 458, 468 (Ind. 2012) (citing *Cooper v. State*, 854 N.E.2d 831, 835 (Ind. 2006)). "Failure to request an admonishment or a mistrial waives the claim, unless the defendant can demonstrate that the misconduct rises to the level of fundamental error." *Id.* The State reads this to mean that, to preserve the claim of prosecutorial misconduct for appeal, Collins must have requested *both* an admonishment and a mistrial. *Castillo*, however, simply requires that the defendant request an admonishment *or* a mistrial. *Id.* Here, Collins did request a mistrial, and we decline to hold that he waived this issue for purposes of appeal. We therefore address Collin's claim of prosecutorial misconduct on the merits.

among other things, the State asked the improper question just once, the defendant did not respond to it, and the State never again referred to the prior conviction).

II. Rebuttal of Self-Defense Claim

[23] Collins also argues that the State failed to present evidence sufficient to rebut his claim of self-defense. The standard of review for a challenge to the sufficiency of the evidence to rebut a claim of self-defense is the same as the standard for any claim of sufficiency of the evidence. *Carter*, 686 N.E.2d at 836 (citing *Hughes v. State*, 153 N.E.3d 354 (Ind. Ct. App. 2020)). When analyzing a claim of insufficient evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the jury's verdict. *Id.* (citing *Sallee v. State*, 51 N.E.3d 130, 133 (Ind. 2016)). It is the jury's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether the evidence is sufficient to support a conviction. *Id.* If a defendant is convicted despite his claim of self-defense, an appellate court will reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. *Id.* (citing *Wilson v. State*, 770 N.E.2d 799, 800-01 (Ind. 2002)).

[24] "Self-defense is a legal justification for an otherwise criminal act." *Stewart v. State*, 167 N.E.3d 367, 376 (Ind. Ct. App. 2021) (citing *Gammons v. State*, 148 N.E.3d 301 (Ind. 2020)), *trans. denied*. The statute governing the defense of self-defense provides that an individual has the right to use "reasonable force against any other person to protect the person or a third person from what the

person reasonably believes to be the imminent use of unlawful force." Ind. Code § 35-41-3-2(c). A person is justified in using deadly force, and does not have a duty to retreat, only if the person reasonably believes such force is necessary to prevent serious bodily injury to himself or a third person, or to prevent the commission of a forcible felony. I.C. §§ 35-41-3-2(c)(1), -(2).

[25] Thus, to prevail in presenting a self-defense claim, the defendant must show that: (1) he was in a place where he had a right to be; (2) he did not provoke, instigate, or participate willingly in the violence; and (3) if the defendant used deadly force, he had a reasonable fear of death or great bodily harm. *Stewart*, 167 N.E.3d at 376 (citing *Wilson*, 770 N.E.2d at 800). If a defendant raises a self-defense claim that finds support in the evidence, the State has the burden of negating at least one of the necessary elements. *Id.* (citing *Hughes v. State*, 153 N.E.3d 354, 361 (Ind. Ct. App. 2020)). The State may meet this burden by rebutting the defense directly—by affirmatively showing the defendant did not act in self-defense—or by simply relying on the sufficiency of its evidence in its case-in-chief. *Id.* (citing *Miller v. State*, 720 N.E.2d 696 (Ind. 1999)).

[26] In the present case, the State presented evidence that was sufficient to rebut Collins's claim of self-defense. Although Collins was in a place where he had a right to be, the State presented evidence that supported a reasonable inference that Collins did not have a reasonable fear of death or great bodily harm that would justify his use of deadly force against Martinez. Although the State did not deny that Martinez started a fight with Collins and was on top of Collins as he lay on the floor, the jury was not precluded from finding that a defendant

used *unreasonable* force simply because the victim was the initial aggressor. *Hood v. State*, 877 N.E.2d 492, 497 (Ind. Ct. App. 2007), *trans. denied*. That is, the jury could reasonably conclude that Collins used unreasonable force by stabbing the unarmed Martinez in the neck during their struggle.

[27] Indeed, the jury was not required to believe Schubert's testimony that Martinez was choking Collins with both hands at the time of the stabbing. In fact, Schubert's testimony to this effect was inconsistent with Collin's DNA being found under the fingernails of only one of Martinez's hands. There was no indication that Collins had any redness or marks on his neck due to Martinez allegedly choking him.

[28] Accordingly, the jury could reasonably conclude that, although Martinez instigated a physical fight with Collins, the latter's action of stabbing Martinez in the neck with such force that it severed his jugular vein and struck a vertebra was not the use of *reasonable* force under the circumstances. *See Birdsong v. State*, 685 N.E.2d 42, 46 (Ind. 1997) (holding that evidence showing that the defendant used unreasonable force negated his claim of self-defense).

[29] Collin's behavior after the stabbing was also inconsistent with this claim of self-defense. As noted above, after Martinez left the house, holding his neck and bleeding profusely, Collins did not telephone the police, even after this was suggested by Schubert's teenage son. Instead, Collins and Schubert attempted to clean up the large amount of Martinez's blood that was splattered throughout the house. Collins washed his blood-stained clothes and showered after the

stabbing. He and Schubert then left the house for several hours. When initially questioned by the police, Collins failed to mention his struggle with Martinez. All of this is inconsistent with the actions of someone who engaged in a reasonable act of self-defense. *See Green v. State*, 870 N.E.2d 560, 565 (Ind. Ct. App. 2007) (holding that evidence that defendant took steps to conceal the victim's death and gave conflicting statements to the police was inconsistent with the defendant's claim of self-defense); *Brown v. State*, 546 N.E.2d 839, 841 (Ind. 1989) (holding that evidence that defendant made no attempt to notify authorities, that he stole items from victim's apartment, and that he fled from the state were sufficient to establish that defendant did not act in self-defense).

[30] Considering only the evidence in favor of the jury's verdict and the reasonable inferences that can be drawn therefrom, we conclude that the State presented sufficient evidence to rebut Collin's claim of self-defense.

III. Sentencing Discretion

[31] Lastly, we address Collins's argument that the trial court abused its discretion when sentencing him to four years of incarceration. Collins was convicted of a Level 5 felony, which has minimum sentence of one year, an advisory sentence of three years, and a maximum sentence of six years. *See* Ind. Code § 35-50-2-6(b).

[32] "[S]ubject to the review and revise power [under Indiana Appellate Rule 7(B)], sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only 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); *Phipps v. State*, 90 N.E.3d 1190, 1197 (Ind. 2018). "An abuse of discretion occurs only if the decision 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." *Schuler v. State*, 132 N.E.3d 903, 904 (Ind. 2019) (citing *Rice v. State*, 6 N.E.3d 940, 943 (Ind. 2014)).

[33] A trial court can abuse its sentencing discretion in a number of ways, including: (1) failing to enter a sentencing statement at all; (2) entering a sentencing statement in which the aggravating and mitigating factors are not supported by the record; (3) entering a sentencing statement that does not include reasons that are clearly supported by the record and advanced for consideration; or (4) entering a sentencing statement in which the reasons provided in the statement are improper as a matter of law. *Ackerman v. State*, 51 N.E.3d 171, 193 (Ind. 2016) (quoting *Anglemyer*, 868 N.E.2d at 490-91), *cert. denied*, 137 S. Ct. 475 (2016).

[34] Collins contends that the trial court abused its sentencing discretion in several ways. First, he claims that the trial court failed to consider the following mitigating circumstances: (1) Martinez induced or facilitated the offense by being intoxicated, threatening Collins, and instigating the physical altercation; (2) there were grounds tending to excuse or justifying the crime, i.e., his claim of self-defense; (3) Collins acted under strong provocation; and (4) imprisonment would result in an undue hardship to Collins's dependents. As noted by the State, however, the trial court specifically stated that it did, in fact,

consider all the mitigating circumstances set forth by defense counsel. Supp. Tr. at 16 ("Mr. Collins, I do take into consideration all of the mitigators that your attorney has mentioned.").

[35] A trial court is not obligated to accept the defendant's contentions as to what constitutes a mitigating circumstance or to give the proffered mitigating circumstances the same weight the defendant does. *Brown v. State*, 160 N.E.3d 205, 219-20 (Ind. Ct. App. 2020) (citing *Weisheit v. State*, 26 N.E.3d 3, 9 (Ind. 2015)). Collin's argument is, in essence, that the trial court failed to give his proffered mitigating factors sufficient weight. It has long been held, however, that the weight a trial court assigns to particular mitigators and aggravators is not subject to review for abuse of discretion. "Because the trial court no longer has any obligation to 'weigh' aggravating and mitigating factors against each other when imposing a sentence . . . a trial court cannot now be said to have abused its discretion in failing to 'properly weigh' such factors." *Anglemyer*, 868 N.E.2d at 491.

[36] Collins further contends that the trial court erred by considering his lack of remorse as an aggravating factor. It is true that a trial court cannot consider as aggravating the fact that a defendant has consistently maintained his innocence, if the defendant does so in good faith. *Sloan v. State*, 16 N.E.3d 1018, 1027 (Ind. Ct. App. 2014) (citing *Cox v. State*, 780 N.E.2d 1150, 1158 (Ind. Ct. App. 2002)). A trial court may, however, consider as an aggravator the defendant's

lack of remorse.[6] *Id.* Here the trial court did not mention Collins's claim of innocence as an aggravator; it simply noted that Collins had shown no remorse, which is a proper aggravating factor, and one that we are in no position to reweigh. *See Snyder v. State*, 176 N.E.3d 995, 998 (Ind. Ct. App. 2021) (holding that the trial court, which has the ability to directly observe the defendant and listen to the tenor of his or her voice, is in the best position to determine whether the remorse is genuine and that, without evidence of some impermissible consideration by the trial court, we accept its determination) (citing *Hape v. State*, 903 N.E.2d 977, 1002-03 (Ind. Ct. App. 2009)).

[37] Collins also complains that the trial court improperly considered as an aggravating factor that Martinez was killed. A trial court cannot consider a material element of the offense as an aggravating factor. *Gober v. State*, 163 N.E.3d 347, 354 (Ind. Ct. App. 2021), *trans. denied*. It may, however, find the nature and particularized circumstances surrounding the offense to be an aggravating factor. *Id.*

[38] Here, the trial court did say during sentencing, "I also look at the aggravators that the State mentioned and the fact, Mr. Collins, that you did end someone's life." Supp. Tr. p. 16. This does lend some credence to Collin's claim that the court considered a material element of the crime as aggravating. The trial court, however, then considered several other valid aggravating factors,

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[6] A lack of remorse is displayed when a defendant displays disdain or recalcitrance, i.e., "I don't care," which is to be distinguished from the right to maintain one's innocence, i.e., "I didn't do it." *Sloan,* 16 N.E.3d at 1027 (citing *Cox*, 780 N.E.2d at 1158).

including that: (a) there were minor children present, (b) the children were even recruited to help clean up the scene of the crime, (c) Collins had shown no remorse, and (d) the amount of force used to stab Martinez was significant enough to cause the knife to strike bone.

[39] Our Supreme Court recently stated:

> [E]ven when a trial court improperly applies an aggravator, a sentence enhancement may be upheld if other valid aggravators exist. When an improper aggravator is used, we remand for resentencing only if we cannot say with confidence that the trial court would have imposed the same sentence if it considered the proper aggravating and mitigating circumstances.

McCain v. State, 148 N.E.3d 977, 984 (Ind. 2020) (citations and internal quotations omitted). Given the additional aggravating factors identified by the trial court, we can say with confidence that it would have imposed the same sentence even without considering Martinez's death as an aggravating factor.

Conclusion

[40] We conclude that the deputy prosecuting attorney did not commit misconduct and that the State presented evidence sufficient to rebut Collins's claim of self-defense. We also conclude that the trial court did not abuse its discretion when it sentenced Collins to four years of incarceration. Accordingly, we affirm.

[41] Affirmed.

Bradford, C.J., and Crone, J., concur.