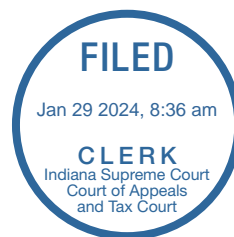


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Jamie C. Egolf
Bloom Gates Shipman &
Whiteleather LLP
Columbia City, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana
J.T. Whitehead
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Michael O. Anderson, Jr.,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff

January 29, 2024

Court of Appeals Case No.
23A-CR-611

Appeal from the Allen Superior
Court

The Honorable David M. Zent,
Judge

Trial Court Cause No.
02D06-1910-MR-12

Memorandum Decision by Judge Weissmann
Chief Judge Altice and Judge Kenworthy concur.

Weissmann, Judge.

- [1] Jaylin Robinson had just turned 23 years old when Michael Anderson, Jr. fatally shot him seven times in a parking lot. The State charged Anderson with murder and sought a sentencing enhancement based on his use of a gun in the offense. After a jury found Anderson guilty as charged, the trial court sentenced him to 80 years imprisonment. Anderson appeals, claiming the State presented insufficient evidence to prove he was the murderer and that his near maximum sentence is inappropriate. Finding no merit to either argument, we affirm.

Facts

- [2] In the late evening on September 28, 2019, Anderson went to a bar. He wore a grey sweatshirt and maroon pants and arrived with his friend, TyOntre Wilms.¹ The bar's security camera captured Anderson generally milling around and conversing with other patrons in the bar. Around midnight, Anderson, Wilms, and two other friends went out to the bar's parking lot.
- [3] Robinson was already in the parking lot when Anderson and his friends exited the bar. With the rest of the group close by, Anderson moved behind Robinson and shot him. A security camera covering the bar did not catch the shooting itself, as it took place behind a vehicle. But the camera captured the moment the gunshots rang out as everyone in the parking lot scattered. Two residents who

¹ The record contains different spellings of "Wilms." We adopt the most frequent spelling for use here.

lived near the bar identified a man wearing a grey sweatshirt like Anderson's running down the street.

[4] Police quickly arrived at the parking lot. The officers began contacting potential witnesses while the events were still fresh. From these efforts, the police repeatedly heard Anderson's name and focused the investigation on him. Coincidentally, two officers involved in the investigation participated in a traffic stop involving Anderson and Wilms a few years ago. Further, one of them personally knew Anderson. Both officers were certain the man on the bar's security camera footage was Anderson.

[5] The State charged Anderson with Robinson's murder and sought a firearm enhancement. While Anderson was in jail, he placed three phone calls in which he worried about being recognized by police and asked his companions to remain silent and not cooperate with the investigation. After a jury found Anderson guilty as charged and found the firearms enhancement applied to his offense, the trial court sentenced Anderson to 60 years imprisonment, enhanced by 20 years.

Discussion and Decision

I. Sufficient Evidence Supports Anderson's Convictions.

[6] When conducting a sufficiency of evidence review, we consider only the probative evidence and reasonable inferences that support the verdict. *Craft v. State*, 187 N.E.3d 340, 345 (Ind. Ct. App. 2022). The conviction will be affirmed unless no reasonable factfinder could find all elements of the crime

proven beyond a reasonable doubt. *Id.* Because it is the role of the factfinder, we do not reassess witness credibility or reweigh evidence. *Id.*

[7] To convict Anderson of murder, the State needed to prove beyond a reasonable doubt that he knowingly or intentionally killed Robinson.² Ind. Code § 35-42-1-1. Due to the lack of direct evidence, the State built its case through a detailed review of the crime scene and the elimination of other suspects. Anderson had known Robinson for years. Anderson walked out to the parking lot just before the shooting. Several eyewitnesses reported seeing someone matching Anderson's description fleeing the scene. Moreover, the State played for the jury phone calls Anderson made from the local jail in which he pressured others not to cooperate with the investigation or implicate him.

[8] Anderson claims other evidence muddies the water. Namely, the security camera in the parking lot did not show who shot Robinson, several eyewitnesses reported seeing a suspect whose appearance did not match Anderson's, and DNA evidence was inconclusive as to whether Anderson was the shooter. These arguments, however, are merely impermissible invitations to reweigh the evidence. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). The jury that convicted Anderson heard this evidence and decided the State had proven

² Anderson's firearm enhancement required proof, in this instance, that Anderson knowingly or intentionally used a firearm in commission of the murder. Ind. Code § 35-50-2-11(d).

Anderson's guilt beyond a reasonable doubt. We cannot and will not disturb the jury's decision on this basis. *Id.*

[9] As the evidence supports the jury's determination that Anderson murdered Robinson, we affirm his conviction.

II. Anderson's Sentence Is Not Inappropriate.

[10] Next, Anderson challenges his 80-year sentence under Indiana Appellate Rule 7(B). Under this rule, we may revise a sentence 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." *Ind.*

Appellate Rule 7(B). Our main concern in reviewing sentence appropriateness is to "leaven the outliers" and "not to achieve a perceived 'correct' sentence." *Knapp v. State*, 9 N.E.3d 1274, 1292 (Ind. 2014). We therefore defer substantially to the trial court's sentencing decision, which prevails unless "overcome by compelling evidence portraying in a positive light the nature of the offense . . . and the defendant's character." *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[11] Our legislature has established sentencing ranges with accompanying advisory sentences that serve as the "starting point" for an appropriate sentence. *Littlefield v. State*, 215 N.E.3d 1081, 1089 (Ind. Ct. App. 2023). The sentencing range for murder is between 45 and 65 years, with an advisory sentence of 55 years. Ind. Code § 35-50-2-3. The sentencing range for a firearm enhancement is between 5 and 20 years. Ind. Code § 35-50-2-11. The trial court sentenced

Anderson to 60 years for murder, plus 20 years for the firearm enhancement, for a total of 80 years imprisonment. Thus, Anderson's sentence falls 5 years short of the possible maximum sentence, which, he contends, is too severe a punishment for his actions. We disagree.

[12] The nature of Anderson's crime supports the imposed sentence. Relevant here are the "details and circumstances of the crime and the defendant's participation therein." *Littlefield*, 215 N.E.3d at 1089. Anderson acknowledges the inherent tragedy of any murder but argues that his offense bears few hallmarks of being "any more egregious than other murders committed within our communities." Appellant's Br., p. 13. We disagree. Anderson shot and struck Robinson seven times, including at least one shot to Robinson's back, all while in a public place with several people nearby. *See Fry v. State*, 885 N.E.2d 742, 751 (Ind. Ct. App. 2008) (holding the defendant's sentence not inappropriate where the defendant shot the victim "multiple times" in a public location).

[13] Nor does Anderson's character warrant relief. We consider a defendant's character "by engaging in a broad consideration of her qualities" to understand her "life and conduct." *Littlefield*, 215 N.E.3d at 1090. Before murdering Robinson, Anderson had not lived a crime-free life. Indeed, his criminal history, including his juvenile adjudication, reflects negatively on his character. Of significant note are Anderson's multiple past convictions for handgun violations showing a pattern of escalating conduct involving firearms, ultimately leading to Robinson's murder. *See Pritcher v. State*, 208 N.E.3d 656,

668 (Ind. Ct. App. 2023) (“The significance of a criminal history in assessing a defendant’s character and an appropriate sentence varies based on the gravity, nature, proximity, and number of prior offenses in relation to the current offense.”).

[14] Further, Anderson’s expressions of remorse at his sentencing hearing are undercut by his witness tampering efforts. While we acknowledge Anderson’s role as a father and his significant family support, these circumstances do not offset the evidence of his poor character. Anderson’s arguments as to his character do not establish that his sentence was inappropriate.

Conclusion

[15] In sum, we find sufficient evidence to prove beyond a reasonable doubt that Anderson murdered Robinson. We also find Anderson’s 80-year sentence is not inappropriate. We therefore affirm his conviction and sentence.

Altice, C.J., and Kenworthy, J., concur.