

MEMORANDUM DECISION

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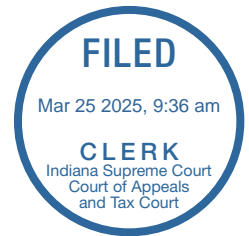


IN THE Court of Appeals of Indiana

Tre Shawn Bowling,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



March 25, 2025

Court of Appeals Case No.
24A-CR-2619

Appeal from the Marion Superior Court
The Honorable Jennifer Prinz Harrison, Judge
Trial Court Cause No.
49D20-2109-F3-30025

Memorandum Decision by Judge Bradford
Judges Pyle and Kenworthy concur.

Bradford, Judge.

Case Summary

- [1] In September of 2021, N.D. was walking near her home when she was followed and attacked by Tre Shawn Bowling, who strangled her, forced her to the ground, and forcibly penetrated her vagina with his fingers and penis. The State charged Bowling with Level 3 felony rape, and, after a jury found him guilty as charged, the trial court sentenced him to fifteen years of incarceration. Bowling contends that his sentence is inappropriately harsh in light of the nature of his offense and his character. Because we disagree, we affirm.

Facts and Procedural History

- [2] On the afternoon of September 23, 2021, seventy-six-year-old N.D. left her Indianapolis home to go for a walk. N.D. noticed a young man, later identified as Bowling, walking behind her. Shortly thereafter, N.D. turned around to discover Bowling right behind her. Bowling said nothing but continued to approach N.D., and, as N.D. started to yell for help, he began to strangle her. When N.D. tried to resist, Bowling threw her on the ground with such force that she thought that her ribs had been broken. Bowling straddled N.D., pulled her pants down below her knees, penetrated her vagina with his fingers, removed his own pants, and forced his penis into her vagina. The penetration was very painful for N.D., and, every time she tried to yell, Bowling would strangle her again. After approximately ten minutes, Bowling stood up and

walked away. N.D. contacted the authorities and provided a description of Bowling to responding police, who apprehended him nearby.

[3] N.D. was taken to a hospital, where she underwent a forensic examination. The examination revealed trauma injuries in and around her vagina that were worse than the injuries of any other sexual-assault patient the examining nurse had seen. N.D. had ongoing pain in her ribs that lasted for months after the attack, as well as permanent damage to her throat that left her unable to sing in her church choir. Moreover, because N.D. was unable to cope with being in and around the location of the attack, she and her husband moved to a different neighborhood.

[4] On September 28, 2021, the State charged Bowling with Level 3 felony rape. On March 6, 2024, the jury found Bowling guilty as charged, and, on October 4, 2024, the trial court sentenced him.¹ The trial court found that the facts and circumstances surrounding the rape in broad daylight of a woman taking a walk in her neighborhood were “an extreme aggravator.” Tr. Vol. IV p. 77. The trial court also found other aggravating circumstances, including N.D.’s age; Bowling’s delinquent behavior as a juvenile and previous membership in a gang; and that the harm to N.D., both physically and psychologically, was greater than that required to prove the offense. While the trial court gave

¹ At the same hearing, the trial court also sentenced Bowling to thirteen years of incarceration following his guilty plea to Level 3 felony rape in Cause No. 49D20-2203-F3-6613, which sentence is to be served consecutively to his sentence in this case. As we write, Bowling is facing charges for two counts of Level 1 felony rape, three counts of Level 3 felony rape, and Level 6 felony strangulation in Monroe County in Cause No. 53C02-2201-F1-74.

Bowling's age (twenty years old at the time of the rape) "a little mitigating weight[,] it did not give any mitigating weight to Bowling's account of his difficult childhood and found that the aggravating circumstances outweighed the mitigating. Tr. Vol. IV p. 79. The trial court sentenced Bowling to fifteen years of incarceration.

Discussion and Decision

- [5] Bowling contends that his fifteen-year sentence is inappropriately harsh. We "may revise a sentence authorized by statute 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). "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Shouse v. State*, 849 N.E.2d 650, 660 (Ind. Ct. App. 2006) (citations and quotation marks omitted), *trans. denied*. "[W]hether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008). In addition to the "due consideration" we are required to give to the trial court's sentencing decision, "we understand and recognize the unique perspective a trial court brings to its sentencing decisions." *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007) (quoting Appellate

R. 7(B)). Bowling has been convicted of a Level 3 felony, and Indiana Code section 35-50-2-5(b) provides that a person convicted of a Level 3 felony “shall be imprisoned for a fixed term of between three (3) and sixteen (16) years, with the advisory sentence being nine (9) years[,]” making Bowling’s sentence significantly enhanced.

[6] In evaluating the nature of Bowling’s offense, we consider “the nature, extent, heinousness, and brutality of the offense[,]” *Dean v. State*, 222 N.E.3d 976, 990 (Ind. Ct. App. 2023), and, in so doing, we find it to be particularly heinous. Bowling was convicted of “knowingly or intentionally [having] sexual intercourse with another person [...] when [...] the other person is compelled by force or imminent threat of force [which is] rape, a Level 3 felony.” Ind. Code § 35-42-4-1(a). Bowling’s use of force was, to say the least, extreme and went far beyond that required to prove the offense. Bowling strangled N.D., pushed to her to the ground, and forcibly raped her in broad daylight in her neighborhood, strangling her again when necessary to keep her quiet. Bowling’s violent attack caused the worst vaginal injuries the examining nurse had ever seen, caused N.D. months of pain to her ribs, and resulted in permanent injury to her throat.

[7] N.D.’s physical injuries are only part of the damage Bowling inflicted that day. At the hearing, one of N.D.’s children submitted a statement about how the rape had “left wounds that may never fully heal[,] invaded our peace of mind[,] and forever altered the trajectory of our -- all of our lives.” Tr. Vol. IV p. 54. N.D. told the trial court that she was “not the same person [she] was before the

attack[,]” how Bowling’s attack had left her “afraid of so many things that once brought me joy and peace[,]” and how she “often wake[s] up at night gasping for air, reliving the sensation of being strangled.” Tr. Vol. IV p. 58, 59. N.D. and her husband felt compelled to move to a different neighborhood after the rape. N.D. explained that, in addition to the permanent damage to her throat and voice, she had developed heart issues since the rape. The heinous nature of Bowling’s offense justifies an enhanced sentence.

[8] Bowling’s poor character also justifies his enhanced sentence. While it is true that Bowling did not have any prior convictions when he was sentenced in this case, he was sentenced the same day for another Level 3 felony rape in another cause number, and is, as we write, facing charges of two counts of Level 1 felony rape, three counts of Level 3 felony rape, and Level 6 felony strangulation in Monroe County.² See, e.g., *Harlan v. State*, 971 N.E.2d 163, 170 (Ind. Ct. App. 2012) (“Allegations of prior criminal activity need not be reduced to conviction before they may be properly considered as aggravating circumstances by a sentencing court.”).

[9] Moreover, Bowling was written up seven times while incarcerated awaiting trial in this case, for assault, violating jail rules, and disrupting operations. Bowling notes that he was employed, but we have recognized that “most people are gainfully employed, and this does not weigh in favor of a lesser sentence.” *Pritcher v. State*, 208 N.E.3d 656, 669 (Ind. Ct. App. 2023) (citing *Hale v. State*,

² It would seem that these charges all involve the same alleged victim.

128 N.E.3d 456, 465 (Ind. Ct. App. 2019), *trans. denied*). Bowling concedes that, in light of his other rape conviction and pending charges, “his character could be considered deplorable[,]” Appellant’s Br. p. 13, and we agree.

Bowling has failed to convince us that, in light of the nature of his offense and his character, a reduction in his fifteen-year sentence for Level 3 felony rape is warranted.

[10] The judgment of the trial court is affirmed.

Pyle, J., and Kenworthy, J., concur.

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