

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Alicia A. Bustle,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff.

April 28, 2023

Court of Appeals Case No.
22A-CR-2049

Appeal from the Brown Circuit
Court

The Honorable Mary Wertz, Judge

Trial Court Cause No.
07C01-2102-MR-104

Memorandum Decision by Judge Pyle

Chief Judge Altice and Judge Riley concur.

Pyle, Judge.

Statement of the Case

[1] Alicia A. Bustle (“Bustle”) appeals, following a guilty plea, her sentence for murder.¹ Bustle’s sole argument is that her fifty-five-year sentence is inappropriate. Concluding that Bustle’s sentence is not inappropriate, we affirm the trial court’s sentence.

[2] We affirm.

Issue

Whether Bustle’s sentence is inappropriate.

Facts

[3] In February 2021, Bustle and Patrick Harper (“Harper”) came up from Kentucky to visit Michael Hazelgrove (“Hazelgrove”). While at Hazelgrove’s house, Bustle, Hazelgrove, and Harper used methamphetamine. The following day, while Hazelgrove was outside of the house, Bustle shot and killed Harper. Specifically, Bustle shot Harper three times in the head and one time in the back. When Hazelgrove heard gunshots and returned inside, Bustle threatened to kill Hazelgrove too unless he helped her dispose of the body. Bustle and Hazelgrove wrapped Harper’s body in plastic, and Bustle fled the house. Hazelgrove told his son what had happened, and his son called the police. Officers then arrested Bustle.

¹ IND. CODE § 35-42-1-1.

[4] Later that month, the State charged Bustle with murder. In April 2022, the State amended the charging information and added an habitual offender enhancement. In May 2022, Bustle pleaded guilty to the murder charge. In exchange, the State agreed to dismiss the habitual offender enhancement. The plea agreement also stated that the executed portion of Bustle’s sentence could not exceed fifty-five years, which is the advisory sentence for murder. The trial court took Bustle’s guilty plea under advisement. The trial court also ordered a presentence investigation report (“PSI”) and scheduled a sentencing hearing.

[5] The trial court held a sentencing hearing in June 2022. At the hearing, Bustle participated in the allocution, during which she apologized to the victim’s family. The trial court found as an aggravating circumstance Bustle’s extensive criminal history, which included three drug-related felony convictions and nine misdemeanor convictions. The trial court also found as an aggravating circumstance that Bustle had been on probation at the time of this offense and had multiple previous probation violations. Also, the trial court found Bustle’s failure to complete substance abuse treatment in the past and history of reoffending to be an aggravating circumstance. The trial court found Bustle’s guilty plea to be a slight mitigating circumstance. The trial court sentenced Bustle to fifty-five (55) years fully executed at the Indiana Department of Correction (“the DOC”) for her murder conviction.

[6] Bustle now appeals.

Decision

- [7] Bustle contends that her fifty-five-year sentence is inappropriate. She asks this Court to reduce her sentence to the statutory minimum of forty-five years.
- [8] We may revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). The defendant has the burden of persuading us that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). The principal role of a Rule 7(B) review “should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived correct result in each case.” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008) (internal quotation marks omitted). Whether a sentence is inappropriate ultimately turns on “the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case.” *Id.* at 1224. “Appellate Rule 7(B) analysis is not to determine whether another sentence is more appropriate but rather whether the sentence imposed is inappropriate.” *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012) (internal quotation marks and citation omitted), *reh’g denied*.
- [9] When determining whether a sentence is inappropriate, we acknowledge that the advisory sentence “is the starting point the Legislature has selected as an appropriate sentence for the crime committed.” *Childress*, 848 N.E.2d at 1081. A defendant “bears a particularly heavy burden in persuading us that h[er]

sentence is inappropriate when the trial court imposes the advisory sentence.”

Fernbach v. State, 954 N.E.2d 1080, 1089 (Ind. Ct. App. 2011), *trans. denied*.

Bustle pleaded guilty to murder. A person who commits murder “shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years.” I.C. § 35-50-2-3. Here, the trial court sentenced Bustle to a sentence of fifty-five (55) years for her murder conviction to be served at the DOC. This was an advisory sentence and well below the statutory maximum.

[10] Turning first to the nature of the offense, we note that Bustle shot and killed Harper by shooting him three times in the head and once in the back. Bustle then threatened to kill Hazelgrove unless he helped her dispose of the body. Bustle and Hazelgrove wrapped Harper’s body in plastic, and Bustle left Hazelgrove’s house. The nature of this offense in no way merits a reduction of Bustle’s sentence.

[11] Turning to Bustle’s character, we note that her criminal history is extensive. Bustle has three prior felony convictions and nine prior misdemeanor convictions. Bustle has also violated the terms of her probation multiple times. Further, at the time of this offense, Bustle was on probation for a previous offense and had pending charges in Kentucky. Bustle has clearly shown that attempts at rehabilitation have failed.

[12] Bustle has not persuaded this Court that her fifty-five-year sentence for her murder conviction is inappropriate. Therefore, we affirm the sentence imposed by the trial court.

[13] Affirmed.

Altice, C.J., and Riley, J., concur.