MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Deamonta McIntyre,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 11, 2023

Court of Appeals Case No. 23A-CR-1443

Appeal from the Hendricks Superior Court

The Honorable Stephenie D. LeMay-Luken, Judge

Trial Court Cause No. 32D05-2212-MR-3

Memorandum Decision by Judge Bradford
Judges Vaidik and Brown concur.

Bradford, Judge.

Case Summary

[1] After pleading guilty to felony murder, Deamonta McIntyre was sentenced to a sixty-year sentence. On appeal, McIntyre contends that his sentence is inappropriate in light of the nature of his offense and his character. We affirm.

Facts and Procedural History

[2] On December 8, 2022, McIntyre conspired with Jaylin Stovall to rob Christian Arciniega during a drug deal. McIntyre arranged to purchase marijuana from Arciniega before meeting him at Cardinal Bark Park in Brownsburg to complete the transaction. Before the transaction had been completed, however, McIntyre shot and killed Arciniega "while committing or attempting to commit a robbery." Tr. Vol. II p. 31.

[3] On December 12, 2022, the State charged McIntyre with murder, felony murder, Level 2 felony criminal confinement, and two counts of Level 3 felony armed robbery. The State also alleged that McIntyre was a habitual offender and that he had used a firearm in the commission of his crime. On May 11, 2023, McIntyre pled guilty to felony murder. In exchange for McIntyre's plea, the State agreed to dismiss the remaining counts and allegations. Pursuant to the terms of McIntyre's plea agreement, sentencing was left to the discretion of the trial court. The trial court subsequently accepted McIntyre's guilty plea, entered a judgment of conviction against him, and sentenced him to sixty years of incarceration.

Discussion and Decision

[4] Indiana Appellate Rule 7(B) provides that "The Court 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." In analyzing such claims, we "concentrate less on comparing the facts of [the case at issue] to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant's character." *Paul v. State*, 888 N.E.2d 818, 825 (Ind. Ct. App. 2008) (internal quotation omitted), *trans. denied*. The defendant bears the burden of persuading us that his sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).

[5] "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." Ind. Code § 35-50-2-3(a). After determining that the aggravating circumstances outweighed the mitigating circumstances, the trial court sentenced McIntyre to an aggravated, sixty-year sentence. McIntyre contends that his sentence is inappropriate in light of both the nature of his offense and his character.

[6] With regard to the nature of his offense, McIntyre asserts that "[a]mong murders, even those between drug dealers, [his] crime was not particularly heinous to warrant an aggravated sentence." Appellant's Br. p. 9. We

disagree. McIntyre conspired to rob Arciniega during a drug deal, in which he had claimed to be interested in purchasing marijuana. Instead of completing the transaction or merely robbing Arciniega, McIntyre shot Arciniega twice, killing him. McIntyre also threatened to kill Arciniega's companion and took her cellular telephone. In addition, as McIntyre was leaving the scene, he stole Arciniega's vehicle and drove over Arciniega's arm and hand.

[7] As for his character, McIntyre acknowledges that his "criminal history is significant" and that he has "spent the majority of his adult life in" the Department of Correction ("DOC"). Appellant's Br. p. 9. He claims, however, that an aggravated sentence was not appropriate because "this [was] his first conviction for a violent crime." Appellant's Br. p. 9. The State counters that McIntyre's character does not warrant a sentence reduction, but rather that his character "has continually deteriorated despite numerous opportunities to reform through the probation system and other correctional alternatives." Appellee's Br. p. 14.

[8] McIntyre's criminal history includes numerous juvenile adjudications, misdemeanor and felony convictions, and violations of the conditions of probation and community corrections. While McIntyre claims that the instant matter involves his first conviction for a violent crime, the crime involved is murder, which does not reflect well on McIntyre's character. McIntyre also has amassed sixteen conduct violations while in the DOC and was on parole for a Level 5 felony auto theft conviction at the time he shot and killed Arciniega.

McIntyre was also determined to be a "very high" risk to reoffend. Appellant's App. Vol. II p. 71.

[9] Furthermore, to the extent that McIntyre claims on appeal that he suffers from untreated mental-health issues, such claim is contrary to his prior assertion that his general mental health was "good." Appellant's App. Vol. II p. 70. In addition, while McIntyre claims on appeal to have suffered from a difficult childhood, he previously described his childhood as "okay." Appellant's App. Vol. II p. 68. While McIntyre has expressed remorse for Arciniega's death, he has previously attempted to shift the blame to Arciniega. Moreover, in sentencing McIntyre the trial court did not find McIntyre's stated remorse to be genuine, citing McIntyre's "lack of remorse and the cold-blooded and calculated nature of this offense." Tr. Vol. II p. 51. The trial court was "in the best position to determine whether" McIntyre's expressed remorse had been genuine. *Corralez v. State*, 815 N.E.2d 1023, 1025 (Ind. Ct. App. 2004). McIntyre has failed to convince us that his sixty-year sentence is inappropriate.

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

Vaidik, J., and Brown, J., concur.