

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Michael Middaugh,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 1, 2022

Court of Appeals Case No.
22A-CR-5

Appeal from the
Marshall Superior Court

The Honorable
Robert O. Bowen, Judge

Trial Court Cause No.
50D01-1909-F1-4

Molter, Judge.

- [1] In August 2019, Michael Middaugh sexually assaulted L.M. in front of her two-year-old child at her family home in Bremen, Indiana. The State charged

Middaugh with three counts of Level 1 felony rape, one count of Level 1 felony burglary, one count of Level 2 felony robbery, and one count of Level 3 felony criminal confinement and alleged that he was a habitual offender. Middaugh pleaded guilty to two counts of rape and admitted to being a habitual offender. His aggregate sentence was forty-six years, which was ordered to be served consecutively to a forty-five-year sentence Middaugh received from Elkhart County. Middaugh appeals, arguing that the trial court abused its discretion because it failed to enter a sentencing statement. Finding that the trial court did not abuse its discretion in sentencing Middaugh, we affirm.

Facts and Procedural History

- [2] Around 10:00 a.m. on August 28, 2019, Middaugh appeared at L.M.'s front door on her family farm in Bremen, Indiana, asking for written directions to Wakarusa, Indiana. When L.M. returned to the door with the written directions, Middaugh threatened her with a knife, robbed her, and tied her up with zip ties. Middaugh then struck L.M., tore off her clothes, and raped her for approximately thirty minutes in front of her two-year-old child. After Middaugh fled the scene, L.M. freed herself and called the police. The police established Middaugh as a suspect, and L.M. then confirmed he was the attacker.
- [3] A few weeks before Middaugh attacked L.M., he had committed burglary with a deadly weapon, criminal confinement, and sexual battery on July 18, 2019, in Elkhart County. Additionally, at the time of the instant offense, Middaugh had

an outstanding warrant for his failure to register as a sex offender and a pending probation violation in a case involving the molestation of a child.

[4] The State charged Middaugh with three counts of rape, each as a Level 1 felony; burglary as a Level 1 felony; robbery as a Level 2 felony; criminal confinement as a Level 3 felony; and alleged him to be a habitual offender. Middaugh secured a plea agreement requiring him to plead guilty to two counts of Level 1 felony rape and to admit to being a habitual offender in exchange for the State dismissing the remaining charges. Under the plea agreement, Middaugh agreed to a forty-six-year sentence with the trial court retaining discretion to determine whether that sentence would be served concurrent with or consecutive to his Elkhart County sentences.

[5] Middaugh also entered a plea agreement in his Elkhart County case agreeing to a thirty-year aggregate sentence for burglary with a deadly weapon, sexual battery, criminal confinement, and a habitual offender enhancement. An additional plea agreement was entered for a prior child molestation case from Elkhart County where Middaugh was sentenced to fifteen years for an aggregate sentence of forty-five years from Elkhart County. The trial court ordered that these Elkhart County sentences must be served consecutively to the forty-six-year sentence in the present case. Middaugh now appeals.

Discussion and Decision

[6] Middaugh argues the trial court abused its discretion by failing to enter a sentencing statement that explained its reasons for imposing the sentence it did.

Sentencing decisions lie within the sound discretion of the trial court. *Cardwell v. State*, 895 N.E.2d 1219, 1222 (Ind. 2008). An abuse of discretion occurs when 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 from them. *Hudson v. State*, 135 N.E.3d 973, 979 (Ind. Ct. App. 2019). A trial court may abuse its discretion in several ways, including: (1) failing to enter a sentencing statement at all; (2) entering a sentencing statement that includes aggravating and mitigating factors unsupported by the record; (3) entering a sentencing statement that omits reasons that are clearly supported by the record; or (4) entering a sentencing statement that includes reasons that are improper as a matter of law. *Anglemyer v. State*, 868 N.E.2d 482, 490–91 (Ind. 2007), *clarified on reh’g*, 875 N.E.2d 218 (Ind. 2007).

[7] Middaugh argues that absent a sentencing statement explicitly explaining the reasoning for imposing a sentence by the trial court, there is no way of knowing why the trial court ordered the sentence it did. Appellant’s Br. at 9. He goes on to argue that it is unclear whether any mitigating or aggravating factors were properly found. *Id.* at 8. Additionally, he argues that it is unclear whether the trial court ordered the sentences to be served consecutively as an exercise of its discretion or because it believed it lacked the authority to order otherwise. *Id.*

[8] The terms of Middaugh’s sentence were set out in a detailed plea agreement. Under the plea agreement, both parties agreed the trial court retained discretion as to whether Middaugh would serve his sentence consecutively or concurrently

with his Elkhart County sentence. There was sufficient information and reasoning from the oral statements at the plea hearing and the sentencing hearing for the trial court to justify Middaugh's sentence, so the trial court did not abuse its discretion. While it is true that the trial court did not explicitly enter a sentencing statement with its reasoning, during sentencing, it did address the circumstances regarding the location and chronology of the offenses. Tr. Vol. 2 at 11–15.

[9] The trial court stated that Middaugh was involved in two separate cases involving different offenses against different victims in different counties. *Id.* The existence of multiple victims is a valid aggravating circumstance that can justify imposing consecutive sentences. *McBride v. State*, 992 N.E.2d 912, 919–20 (Ind. Ct. App. 2013). Also, a defendant's criminal history is a valid aggravating circumstance when the trial court determines sentencing. *Gross v. State*, 22 N.E.3d 863, 869 (Ind. Ct. App. 2014). During the sentencing hearing, Middaugh acknowledged that he had an extensive criminal history dating back to 1983. Appellant's App. Vol. 2 70–74. Middaugh's prior criminal history, a valid aggravating circumstance, was discussed at the sentencing hearing when determining whether the Elkhart County sentence would be concurrent or consecutive to the sentence in this case. Tr. Vol. 2 at 14–16.

[10] Because the trial court found at least one aggravating factor, the imposition of consecutive sentences was not an abuse of discretion, and we affirm.

[11] Affirmed.

Mathias, J., and Brown, J., concur.