MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Michaela M. Voyles,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 18, 2024

Court of Appeals Case No. 23A-CR-2119

Appeal from the Marion Superior Court

The Honorable Angela D. Davis, Judge

The Honorable Ross F. Anderson, Magistrate

Trial Court Cause No. 49D27-2203-F4-8599

Memorandum Decision by Judge Brown
Judges Riley and Foley concur.

Brown, Judge.

[1] Michaela M. Voyles appeals her sentence for leaving the scene of an accident resulting in death as a level 4 felony. We affirm.

Facts and Procedural History

[2] On March 18, 2022, Voyles was the driver of a vehicle that was involved in an accident and knowingly or intentionally failed to stop the vehicle at the scene of the accident, and the accident resulted in the death of a pedestrian Carol Miller. Voyles was placed on pretrial release, removed her ankle monitor, and turned herself in two days later.

[3] On March 31, 2022, the State charged Voyles with leaving the scene of an accident resulting in death as a level 4 felony. In June 2023, Voyles pled guilty as charged pursuant to a plea agreement which provided that her sentence would be open to argument before the court. On July 18, 2023, the court held a sentencing hearing. Charles Miller submitted a victim impact statement stating that he was Carol Miller's son, the coroner had suggested that he not see his mother in her condition which showed how much damage Voyles caused, his mother had lived with him, and he moved forty miles away from his old home for a fresh start and so that he would not drive by the location of the accident every day. The court found the aggravating factors included that Voyles violated the terms of her pretrial release and that the harm caused was greater than the elements of the offense. It found the mitigating factors included her remorse, her lack of criminal history, and that she pled guilty and accepted

responsibility for her actions. The court sentenced Voyles to six years with three years suspended and one year of probation.

Discussion

[4] Voyles asserts that her sentence is inappropriate. She argues that she pled guilty as charged with open sentencing, was twenty-three years old at the time of the offense, had no prior criminal history, was attending college, was employed full time as a certified nursing assistant, and expressed genuine remorse.

[5] Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). Ind. Code § 35-50-2-5.5 provides that a person who commits a level 4 felony shall be imprisoned for a fixed term of between two and twelve years with the advisory sentence being six years.

[6] Our review of the nature of the offense reveals that Voyles was driving home from the airport when her vehicle struck Miller resulting in Miller's death, and Voyles knowingly or intentionally failed to stop her vehicle at the scene of the accident. Our review of the character of the offender reveals that Voyles pled guilty to leaving the scene of an accident as a level 4 felony pursuant to a plea agreement which left sentencing to the discretion of the trial court. Voyles was

placed on pretrial release, removed her ankle monitor, and turned herself in two days later.

[7] The presentence investigation report ("PSI") indicates Voyles was born in August 1996 and graduated from high school in 2014. The PSI indicates that Voyles had no criminal convictions prior to the instant offense and that she had one prior arrest in October 2019 for resisting law enforcement and public intoxication but the case was dismissed. Voyles reported she attended South College in Indianapolis for six or seven months before her arrest with the goal of becoming a registered nurse and, until November 2022, she was employed full time as a certified nursing assistant. She reported she first consumed alcohol at age nineteen, previously suffered from an alcohol problem, last consumed alcohol on November 19, 2022, the night she turned herself in, first experimented with marijuana at age fifteen at which time she used the substance daily, and had not used marijuana for the previous three years. She reported she participated in treatment at Landmark Recovery in Indianapolis on two separate occasions, she participated in an inpatient program for substance abuse through Landmark Recovery where she stayed for twenty-six days and completed the treatment a couple of days prior to the instant offense, and she had not used alcohol or drugs on the date of the instant offense. Voyles expressed remorse at sentencing. She received the advisory sentence with three years suspended and one year of probation. After due consideration, we

conclude that Voyles has not sustained her burden of establishing that her sentence is inappropriate in light of the nature of the offense and her character.[1]

[8] For the foregoing reasons, we affirm Voyles's sentence.

[9] Affirmed.

Riley, J., and Foley, J., concur.

[1] To the extent Voyles asserts the trial court abused its discretion in sentencing her because it relied on the finding that the harm caused was greater than the elements of the offense, we need not address this issue because we find that her sentence is not inappropriate. *See Chappell v. State*, 966 N.E.2d 124, 134 n.10 (Ind. Ct. App. 2012) (noting that any error in failing to consider the defendant's guilty plea as a mitigating factor is harmless if the sentence is not inappropriate) (citing *Windhorst v. State*, 868 N.E.2d 504, 507 (Ind. 2007) (holding that, in the absence of a proper sentencing order, Indiana appellate courts may either remand for resentencing or exercise their authority to review the sentence pursuant to Ind. Appellate Rule 7(B)), *reh'g denied*; *Mendoza v. State*, 869 N.E.2d 546, 556 (Ind. Ct. App. 2007) (noting that, "even if the trial court is found to have abused its discretion in the process it used to sentence the defendant, the error is harmless if the sentence imposed was not inappropriate"), *trans. denied*), *trans. denied.*