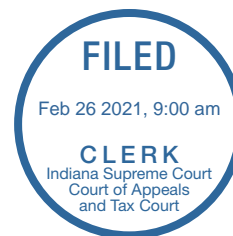


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Jordan D. Phillips,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 26, 2021

Court of Appeals Case No.  
20A-CR-1766

Appeal from the Marion Superior  
Court

The Honorable Lisa F. Borges,  
Judge

Trial Court Cause No.  
49G04-0907-MR-64453

**Pyle, Judge.**

## Statement of the Case

- [1] Jordan Phillips (“Phillips”) appeals the denial of his request for a sentence modification. Concluding that the trial court did not abuse its discretion in denying Phillips’ request, we affirm the trial court’s judgment.
- [2] We affirm.

### Issue

Whether the trial court abused its discretion in denying Phillips’ request for a sentence modification.

### Facts

- [3] In June 2009, Phillips asked a friend to help him rob twenty-two-year-old Jerromey Wingfield (“Wingfield”). The friend refused and advised Phillips not to rob Wingfield because Wingfield knew Phillips, and Phillips would have to harm Wingfield if he robbed him. A few days later, Phillips approached Centrell Lanier (“Lanier”), who agreed to participate in the robbery. Phillips bought cable ties and duct tape to bind Wingfield, and Phillips and Lanier went to Wingfield’s apartment on June 5, 2009. Wingfield’s girlfriend, twenty-one-year-old Shawnice Dunlap (“Dunlap”) and nineteen-year-old Devon Bledsoe (“Bledsoe”) were at Wingfield’s apartment when Phillips and Lanier arrived. Lanier held a gun on Wingfield, Dunlap, and Bledsoe while Phillips used the cable ties to bind their hands and feet. Phillips also wrapped duct tape around their heads. Phillips and Lanier then dragged Wingfield, Dunlap, and Bledsoe into the bathroom, where, according to Phillips, Lanier shot each of the victims

in the head. Phillips and Lanier then searched the apartment and stole marijuana and cash. Wingfield, Dunlap, and Bledsoe all died as a result of the gunshots.

[4] In July 2009, the State charged Phillips with three counts of murder, three counts of Class B Felony criminal confinement, Class A felony robbery, and Class B felony robbery. Also in July 2009, as the result of a separate incident in which Phillips assaulted his pregnant girlfriend, the State charged Phillips with Class C felony battery, Class C felony criminal confinement, Class D felony strangulation, Class D felony domestic battery, and Class D felony intimidation. The following week, the State charged Phillips in a third cause with Class A felony dealing in cocaine and Class B felony possession of cocaine for selling cocaine to a confidential informant.

[5] In April 2011, pursuant to a plea agreement that covered Phillips' three pending causes, Phillips pleaded guilty to three counts of murder and Class A felony dealing in cocaine, and the State dismissed the remaining eleven felony counts. The plea agreement provided that sentencing for the murder convictions would be left to the discretion of the trial court and that the parties had agreed to a twenty (20) year sentence for the Class A felony. The plea agreement further provided that the parties had agreed that the sentences for the murder convictions would run concurrently with the twenty (20) year sentence for the Class A felony conviction. In addition, the plea agreement provided that "the trial court . . . retain[ed] jurisdiction to modify [the] sentence in this case" if Phillips testified at Lanier's trial. (App. Vol. 2 at 32). However, the State

reserved the right to object to the modification and stated that it was not agreeing to a modification.

- [6] In May 2011, the trial court sentenced Phillips to sixty-two (62) years for each of the murder convictions and ordered the sentences to run consecutively to each other. Pursuant to the plea agreement, the trial court ordered the sentences for the murder convictions to run concurrently with the sentence for the Class A felony conviction, for an aggregate sentence of 186 years in the Department of Correction (“DOC”). In its written sentencing order, the trial court found the following aggravating factors:

Brutal nature of offense: Victims were tied with their eyes and mouths taped closed and dragged to the place of their execution; offense involved the betrayal of relationship with victim; the offense displayed significant planning and included measures to hide the offense, including attendance at the funerals of the victims; [Phillips] has a limited criminal history, however the pattern of criminal behavior occurring in 2009 addressed by the plea agreement indicates antisocial behavior.

(App. Vol. 2 at 50).

- [7] In May 2017, Phillips filed a petition for post-conviction relief. This petition was resolved by an agreed resolution between Phillips and the State. Although Phillips had not had the opportunity to testify against Lanier, the agreed resolution provided that Phillips could proceed with the sentence modification

hearing that was originally contemplated by the plea agreement.<sup>1</sup> However, the State reserved the right to present evidence and argument in opposition to the modification. Further, pursuant to the agreed resolution, the modification decision would be left to the trial court's discretion.

[8] The trial court held a hearing on Phillips' request for a sentence modification in August 2020. The testimony at the hearing revealed that, while incarcerated at the DOC, Phillips had participated in several programs. Specifically, Phillips had participated in the PLUS program, worked as a suicide companion, led tours, led Bible study groups, taken part in trade education courses, and participated in athletic leagues. However, the testimony further revealed that Phillips had not successfully completed several programs and that Phillips had accumulated thirteen misconduct reports in seven years. The incidents of misconduct had included refusing to obey orders, possessing controlled substances and tobacco, and disfigurement. Phillips had received his most recent misconduct report in 2018.

[9] During closing argument, Phillips' counsel told the trial court that Phillips "want[ed] to get out to be able to speak and motivate and share his story." (Tr. Vol. 2 at 48). Acknowledging that the trial court was not required to do so, Phillips asked the trial court to consider that Lanier had "t[aken] a more positive plea." (Tr. Vol. 2 at 49). Also acknowledging that a sentence

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<sup>1</sup> In February 2017, Lanier pleaded guilty to conspiracy to commit Class A felony robbery. The trial court sentenced him to twenty-five (25) years, which was the maximum sentence allowed in the plea agreement.

modification was “very rare especially for this type of case[,]” Phillips asked the trial court to modify his sentence by ordering the sentences for the murder convictions to run concurrently with each other rather than consecutively to each other.

[10] After hearing the testimony and the arguments, the trial court reviewed the facts of the case, including that the victims had been bound, their heads had been wrapped in duct tape, and they had all been shot in the head. According to the trial court, “those facts [were] some of the most aggravating factors in the nature of offense that [it had] seen. And [it had] seen some pretty awful things.” (Tr. Vol. 2 at 52). The trial court denied Phillips’ request to modify his sentence.

[11] Phillips appeals.

## **Decision**

[12] Phillips argues that the trial court abused its discretion in denying his request for a sentence modification. We review a trial court’s decision regarding modification of a sentence for an abuse of discretion. *Johnson v. State*, 36 N.E.3d 1130, 1133 (Ind. Ct. App. 2015) *trans. denied*. An abuse of discretion occurs when the trial court’s decision is clearly against the logic and effect of the facts and circumstances before the court. *Id.*

[13] Phillips specifically argues that the trial court abused its discretion in denying his modification request for the following three reasons: (1) the plea agreement contemplated a modification of his sentence; (2) Lanier received a more lenient

sentence; and (3) Phillips has made positive progress in the DOC. First, the plea agreement contemplated a sentencing modification hearing, not a sentencing modification. The State reserved the right to present evidence and argument in opposition to the modification, and the decision was left to the trial court's discretion. Second, "[n]o authority requires co-participants to receive proportional sentences." *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). Third, although rehabilitative efforts during incarceration are commendable, "the mere fact that the process of rehabilitation, the purpose of incarceration, may have started, does not compel a reduction or other modification in [a defendant's] sentence." *Marshall v. State*, 563 N.E.2d 1341, 1343-44 (Ind. Ct. App. 1990), *trans. denied*.

[14] We further note that this Court has previously held, when considering a different statute allowing for sentence modification, that "[t]he heinousness of a person's crime alone can serve as the basis for denying a sentence reduction[.]" *Myers v. State*, 718 N.E.2d 783, 789 (Ind. Ct. App. 1999). Here, at the sentence modification hearing, the trial court specifically stated that the facts of this case were "some of the most aggravating factors in the nature of offense that [it had] seen." (Tr. Vol. 2 at 52). The trial court's decision to deny Phillips' request for sentence modification is not clearly against the logic and effect of the facts and circumstances before it, and we find no abuse of the trial court's discretion.

[15] Affirmed.

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