

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Elizabeth Dee Mantle,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 29, 2024

Court of Appeals Case No.
23A-CR-2084

Appeal from the
Tippecanoe Superior Court

The Honorable
Steven P. Meyer, Judge

Trial Court Cause No.
79D02-2302-F5-24

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

Case Summary

- [1] Elizabeth Dee Mantle appeals her sentence for Level 6 felony possession of methamphetamine and Level 6 felony neglect of a dependent, arguing it is inappropriate. We disagree and affirm.

Facts and Procedural History

- [2] In February 2023, police found Mantle smoking methamphetamine in a car with her two-year-old child in the back seat. When approached, she hid the pipe in her sleeve, hid methamphetamine in her bra, and lied about smoking.
- [3] The State charged Mantle with Level 5 felony possession of methamphetamine in the presence of a child, Level 6 felony possession of methamphetamine, Level 6 felony neglect of a dependent, and Class C misdemeanor possession of paraphernalia. The parties entered into a plea agreement under which Mantle pled guilty to the Level 6 felonies, the State dismissed the other charges, and sentencing was left to the discretion of the trial court.
- [4] Sentencing was set for July 14. Mantle did not cooperate with the probation department in the preparation of the presentence investigation report. Then, on the day of the sentencing hearing, she attempted to leave the courthouse before the hearing began, but security stopped her. The court revoked Mantle's bond,

rescheduled the hearing, and ordered a urine screen. Mantle tested positive for methamphetamine and THC.

[5] In sentencing Mantle, the trial court found six aggravating circumstances: Mantle (1) has a criminal history (three misdemeanor convictions: driving while suspended in 2012 and 2020 and leaving the scene of an accident in 2022); (2) did not cooperate in the preparation of the presentence investigation report; (3) absconded before sentencing; (4) tested positive for drugs on the original sentencing date; (5) tested positive for drugs three other times while the case was pending; and (6) is unlikely to respond to probation. The court found Mantle's guilty plea and substance-abuse issues to be mitigating circumstances. Finding the aggravators to outweigh the mitigators, the court imposed concurrent sentences of two-and-a-half years, with one year to serve in the Tippecanoe County jail and one-and-a-half years suspended to probation, and six months on community corrections as a condition of probation. The court explained that Mantle was "in a position to face either community corrections or probation" and "simply blew it" with her conduct before sentencing. Tr. p. 76. The court added, "The only thing that got you clean, according to the record, is these days sitting in jail[.]" *Id.* at 78.

[6] Mantle now appeals.

Discussion and Decision

- [7] Mantle asks us to reduce her sentence under Indiana Appellate Rule 7(B), which provides that an appellate 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.” The court’s role under Rule 7(B) is to “leaven the outliers,” and “we reserve our 7(B) authority for exceptional cases.” *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019). “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.” *Thompson v. State*, 5 N.E.3d 383, 391 (Ind. Ct. App. 2014) (citing *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008)). Because we generally defer to the judgment of trial courts in sentencing matters, defendants must persuade us that their sentences are inappropriate. *Schaaf v. State*, 54 N.E.3d 1041, 1044-45 (Ind. Ct. App. 2016).
- [8] The sentencing range for a Level 6 felony is six months to two-and-a-half years, with an advisory sentence of one year. Ind. Code § 35-50-2-7(b). Therefore, Mantle faced up to five years in prison for her two convictions. The trial court sentenced Mantle to two-and-a-half years for each conviction but ordered the sentences to run concurrently, with one year to serve in the Tippecanoe County jail and one-and-a-half years suspended to probation, with six months on community corrections as a condition of probation.

[9] Regarding the nature of the offenses, Mantle possessed and smoked methamphetamine in close proximity to her two-year-old child then hid the contraband and lied about smoking. She argues that “none of her actions distinguishes it from the typical offenses of Possession of Methamphetamine and Neglect of a Dependent accounted for by our legislature when it set the advisory sentence at one (1) year for both offenses.” Appellant’s Br. p. 14. But because her child was present, she was charged with and easily could have been convicted of Level 5 felony possession of methamphetamine. Such a conviction would have exposed her to six years in prison. *See* I.C. § 35-50-2-6(b). Mantle’s offenses were clearly more egregious than “typical” Level 6 felonies.

[10] As for her character, Mantle notes that she has been diagnosed with depression and methamphetamine-use disorder and that she has been employed in the past. But she also has a history of misdemeanor convictions and engaged in a variety of misconduct before sentencing. She failed to cooperate in the preparation of the presentence investigation report then absconded and tested positive for drugs on the original sentencing date. She also tested positive for drugs three other times while the case was pending. The only time she stayed clean and out of trouble was while incarcerated. As the trial court found, these facts demonstrated that Mantle was not a good candidate for community corrections or probation.

[11] Mantle has not carried her burden of persuading us that her sentence is inappropriate.

[12] Affirmed.

May, J., and Kenworthy, J., concur.