

## 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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Kristopher K. Blouir,

*Appellant-Defendant,*

v.

State of Indiana,

*Appellee-Plaintiff.*

December 8, 2021

Court of Appeals Case No.  
21A-CR-1030

Appeal from the LaPorte Circuit  
Court

The Honorable Thomas J.  
Alevizos, Judge

Trial Court Cause No.  
46C01-2010-F1-1253

**Brown, Judge.**

[1] Kristopher K. Blouir appeals his sentence for child molesting as a level 1 felony and sexual misconduct with a minor as a level 4 felony. He claims his sentence is inappropriate in light of the nature of the offense and his character. We affirm.

### ***Facts and Procedural History***

[2] Blouir was born in November 1973 and is the biological father of M.B. Between October 19, 2015, and October 19, 2016, Blouir used one or more fingers to penetrate the sex organ of his ten-year-old daughter. In September 2020, he committed the same act when M.B. was approximately fourteen years old.

[3] On October 6, 2020, the State charged Blouir with two counts of child molesting as level 1 felonies and two counts of sexual misconduct with a minor as level 4 felonies. On February 19, 2021, Blouir and the State filed a plea agreement, pursuant to which Blouir agreed to plead guilty to one count of child molesting as a level 1 felony and one count of sexual misconduct with a minor as a level 4 felony and the State agreed to dismiss the remaining counts. On February 19, 2021, the court held a hearing at which Blouir pled guilty pursuant to the plea agreement.

[4] On April 29, 2021, the trial court held a sentencing hearing. LaPorte Police Detective Erin Jenkins testified that she listened to jail telephone calls between Blouir and his wife including a call on April 18th, during which Blouir stated he wished he never fathered his daughter and could have his name removed from

her birth certificate, and he “wanted her gone.” Transcript Volume II at 17. At sentencing, Blouir stated he was sorry, had learned a lot while he was in jail, and hoped he could be sent somewhere where he could rehabilitate himself.

[5] The court found Blouir’s position of trust and lack of remorse as aggravating factors. It found Blouir’s lack of a criminal history as a mitigating circumstance. It also found his guilty plea as a mitigating circumstance but noted that it was “somewhat mitigated by the fact that two counts are being dismissed.” Appellant’s Appendix Volume II at 100. The court found the aggravating and mitigating circumstances balanced and sentenced Blouir to consecutive sentences of thirty years for child molesting as a level 1 felony and a suspended sentence of six years for sexual misconduct with a minor as a level 4 felony.

### *Discussion*

[6] The issue is whether Blouir’s sentence is inappropriate in light of the nature of the offenses and his character. 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).

[7] Blouir argues his sentence is inappropriate because he pled guilty, expressed remorse, has little prior criminal history, and is a low or low to medium risk to reoffend. He also asserts that the victim requested leniency. Blouir argues there were a “limited number of sexual contacts over the course of several years” and that M.B expressed a wish for him “to be part of her life in the future, including to be at her wedding and to see his future grandchildren grow up.” Appellant’s Brief at 9-10. He requests that this Court reduce his sentence to one closer to the minimum of twenty years on his level 1 felony or suspend a portion of his thirty-year sentence on that count.

[8] Ind. Code § 35-50-2-4(b) provides that, except as provided in subsection (c), a person who commits a level 1 felony shall be imprisoned for a fixed term of between twenty and forty years, with the advisory sentence being thirty years. Ind. Code § 35-50-2-4(c) provides a person who commits a level 1 felony child molesting offense described in Ind. Code § 35-31.5-2-72(1) shall be imprisoned for a fixed term of between twenty and fifty years with the advisory sentence being thirty years. Ind. Code § 35-31.5-2-72(1) refers to child molesting involving other sexual conduct if the offense is committed by a person at least twenty-one years old and the victim is less than twelve years old. 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.

[9] Our review of the nature of the offenses reveals that, between October 19, 2015, and October 19, 2016, Blouir used one or more of his fingers to penetrate the

sex organ of his daughter M.B. when she was ten years old and when he was forty-one or forty-two years old. In September 2020, Blouir used one or more of his fingers to penetrate his daughter's sex organ when she was approximately fourteen years old.

[10] Our review of Blouir's character reveals that he pled guilty to two counts, child molesting as a level 1 felony and sexual misconduct with a minor as a level 4 felony, and the State agreed to dismiss the remaining two counts. The presentence investigation report (the "PSI") provides that Blouir reported that he was arrested for a misdemeanor as a juvenile. The PSI also states that Blouir reported that he was arrested for possession of a vehicle without permission in the 1990s. The PSI indicated that Blouir reported mental and physical abuse from both of his stepparents and sexual abuse from his stepbrother. It states that Blouir reported that he started drinking alcohol at age fourteen, with regular use at age twenty-one. The PSI states: "He reported that his daughter is 'hateful, greedy, and self-centered.' He reported that he wishes he hadn't done it because he was abused as a child." Appellant's Appendix Volume II at 78. The PSI indicates that a psychosexual evaluation was completed. The evaluation stated that, using the Static-99 as a measure, Blouir scored a 0 which is considered in the low range of risk to be reconvicted for a sexual offense, and that, using the McGrath Cummings Sex Offender Needs and Progress Scale, he scored a 13, which is in the low to medium risk range to reoffend. Detective Jenkins testified that Blouir had previously said that "he wished he never fathered" M.B. and "wished that he could have his name removed from her birth

certificate.” Transcript Volume II at 16. At the sentencing hearing, Blouir stated that he was sorry for what he had done. The court indicated it did not “give much credence to 11th-hour remorse.” *Id.* at 28.

[11] After due consideration, we conclude that Blouir has not sustained his burden of establishing that his aggregate sentence of thirty-six years with six years suspended is inappropriate in light of the nature of the offenses and his character.

[12] For the foregoing reasons, we affirm Blouir’s sentence.

[13] Affirmed.

May, J., and Pyle, J., concur.