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Indiana Supreme Court
Court of Appeals
and Tax Court

IN THE

Court of Appeals of Indiana

Daniel Romero,

Appellant-Defendant

v.

State of Indiana,

Appellee-Plaintiff

September 3, 2026

Court of Appeals Case No.
25A-CR-3277

Appeal from the Kosciusko Superior Court

The Honorable Karin A. McGrath, Judge

Trial Court Cause No.
43D01-2412-F1-000746

Opinion by Judge Felix
Chief Judge Tavitas and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] Shortly after they broke up, Daniel Romero smashed through his ex-girlfriend Latasha Ibarra's front door, carrying a large wrench and a handgun. Romero swung the wrench at Ibarra then struck her friend Miguel Cardoso on the head with the handgun before shooting him in the shoulder. After Ibarra's child testified at trial, one of the jurors realized she worked at the child's school; after examining the juror, the trial court denied Romero's motions to remove her and for a mistrial. Romero was convicted of burglary resulting in serious bodily injury and sentenced to 35 years of incarceration. Romero now appeals, raising three issues for our review:

1. Whether the trial court abused its discretion when it denied Romero's motions to remove a juror and for a mistrial;
2. Whether the State presented sufficient evidence to support Romero's conviction; and
3. Whether Romero's sentence is inappropriate under Indiana Appellate Rule 7(B).

[2] We affirm.

Facts and Procedural History

[3] In December 2024, Romero and Ibarra ended a five-year romantic relationship. During the relationship, Romero lived with Ibarra and her two children in Ibarra's home in Warsaw, Indiana. After Romero and Ibarra broke up, Romero moved out of Ibarra's home, and Ibarra "changed the locks the same

day." Tr. Vol. II at 175. Given the length of the relationship, Romero was "like a father figure" to Ibarra's two children, Tr. Vol. III at 31, so when they began missing him after the breakup, Ibarra arranged for them to see Romero.

[4] At approximately 4:30 p.m. on December 21, Romero picked up Ibarra and her children, 11-year-old O.I. and 12-year-old A.I. (collectively, the "Children"). Romero drove Ibarra to work, then brought the Children to his parents' house where he was living at the time to stay the night. At approximately 9:00 p.m., Ibarra left work and went home. Ibarra's friend Miguel Cardoso drove his vehicle to her home shortly thereafter to eat dinner and watch television. Throughout the night, Romero was "blowin[g] up" Ibarra's phone, Tr. Vol. II at 233, and she was not responding.

[5] Between 12:20 a.m. and 12:32 a.m. on December 22, Romero called Ibarra nine times and sent her two text messages. At 12:23 a.m., Romero texted Ibarra, "I new you are whit some one that's why you don't answer good played," Tr. Vol. IV at 18 (errors in original). At 12:29 a.m., Romero texted Ibarra, "Answer the phone you scared," *id.* (errors in original).

[6] Sometime before 12:42 a.m., Romero woke up O.I. and told her they were "gonna [sic] pick up [her] mom from work," Tr. Vol. II at 133. Romero began "driving very fast and [O.I.] couldn't put on [her] seatbelt." *Id.* at 134. Romero drove to Ibarra's house, "hit [the] brakes fast," *id.* at 186, approached the house with a "wrench in his hand[,] and he broke in . . . the door," *id.* at 134. Ibarra "knew who it was" when she heard the brakes, so she "tried to run to the door

to block it"; however, she "didn't even get a chance to block the door even though it was locked. It was kicked in on [her]." *Id.* at 187. When Romero entered through the broken door, he said, "How could you do this to me b[*]tch," *id.* at 189, and tried to hit Ibarra with the wrench. Romero dropped the wrench, and said, "I'll kill him," before he pulled out his handgun and hit Cardoso in the head with it. *Id.* at 219. After Cardoso fell on the couch "drippin[g] blood," *id.* at 219–20, Romero "racked" the handgun and shot him in the shoulder, *id.* at 221. After shooting Cardoso, Romero "looked at [Ibarra] and said[,] 'Look at what you made me do.'" *Id.* at 189. Romero then left the home after pointing the handgun at Ibarra for "a good thirty seconds." *Id.*

[7] From Romero's vehicle, O.I. could hear Ibarra screaming and a gun firing. When Romero returned to the vehicle, he "started driving kind of fast" and told O.I. he had "accidentally shot someone." Tr. Vol. II at 136. Romero drove to his brother's house to "cut off his hair" and change clothes, *id.* at 137, before returning to his parents' residence.

[8] Meanwhile, at 12:42 a.m., Ibarra called 911 requesting an ambulance for Cardoso. When first responders arrived, they transported Cardoso to a local hospital; he was later airlifted to a second hospital. Law enforcement officers located an unfired round on Ibarra's living room floor, and a large wrench "[c]apable of inflicting serious bodily injury," *id.* at 250, "just inside the front door," *id.* at 243.

[9] The State filed multiple charges against Romero; however, by the trial date, the State pursued only charges of burglary as a Level 1 felony[1] and burglary as a Level 2 felony[2]. Romero's version of the above events was that he and O.I. were "worried" about Ibarra and wanted to "check on [her] to make sure that she's okay and to see if she has made it home" from work. Tr. Vol. III at 36. Romero denied texting Ibarra about her being scared and his knowing she was with someone else. *Id.* at 47. Romero admitted that he "grabbed [his] gun and . . . put it in [his] waist with [his] holster" before driving to Ibarra's house. *Id.* at 36. He claimed that when he arrived at Ibarra's house, he saw Ibarra and Cardoso on the couch and "felt betrayed," so he "pushed the door open to confront them." *Id.* at 39. Romero denied bringing the wrench to the door with him and claimed that his "gun came out of [his] holster" when Cardoso kicked him, knocking the magazine out. *Id.* at 40. According to Romero, he and Ibarra "both went for the gun," they "had a tussle," and the "gun went off" during the "tussle." *Id.*

[10] Warsaw Police Department Lieutenant Ryan Coble testified on rebuttal that "[w]hen [he] located the firearm within [Romero's] truck, the gun was chambered. If the magazine was dislodged at the time of firing, it would not have cycled the additional round so, therefore, the gun would not have been chambered when [he] located it." Tr. Vol. III at 62. Lieutenant Coble had

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[1] Ind. Code § 35-43-2-1(4)(B).

[2] I.C. § 35-43-2-1(3)(A).

previously testified during the State's case-in-chief that he had "never known a round to . . . expel from a magazine upon dropping," and "if a magazine is seated into a gun[,] the only way to expel a round is to either fire . . . the gun or rack[] the slide which will then expel . . . the one round unspent." *Id.* at 20.

[11] The jury found Romero guilty as charged. The trial court entered a conviction on the Level 1 felony and sentenced Romero to 35 years of incarceration. This appeal ensued.

Discussion and Decision

1. The Trial Court Did Not Abuse Its Discretion by Denying Romero's Motions to Remove a Juror and for a Mistrial

[12] Romero asserts that the trial court abused its discretion by denying his motions to remove a juror and for a mistrial. At trial, O.I. testified about Romero waking her up and driving "very fast" to Ibarra's house. Tr. Vol. II at 134. O.I. also testified that she saw Romero holding a wrench as he approached the house. Following O.I.'s testimony, Juror 24 notified the trial court that "although she did not recognize [O.I's] name when [the trial court] read through the potential list of witnesses, once [O.I.] took the stand[,] she thought she recognized her as a child that she has seen" in the school where the juror worked. *Id.* at 167. As a result, the trial court held a hearing outside the presence of the other jurors. Both the State and Romero's counsel questioned Juror 24 about the nature of her relationship with O.I. and her ability to remain impartial. Juror 24 disclosed that she worked in O.I.'s "classroom with other kids" as a skills coach, *id.* at 168, but she had no relationship nor had ever

spoken directly with O.I., *id.* at 169. Juror 24 denied that she "might give [O.I.'s] testimony greater weight than anyone else's" because she worked in O.I.'s classroom. *Id.* at 169.

[13] Thereafter, Romero moved to have Juror 24 removed and claimed that he would have used a peremptory strike against her if he had known she worked in O.I.'s classroom. The trial court denied Romero's motion, explaining in relevant part, "The most important question asked was whether or not this juror would give any greater weight to this witness's testimony because of the fact that she sees her in the classroom and she definitively said no"; "I don't have any basis to believe this juror can be anything but the unbiased and impartial juror that we expect her to be and all of our jurors to be." *Id.* at 171. Romero then moved for a mistrial, arguing, "I think it could be prejudicial to my client even though [Juror 24] stated she could be fair and impartial." *Id.* The trial court denied that motion.

[14] Romero's motions were based on his belief that the jury was tainted by Juror 24's "undisclosed classroom relationship" with O.I. Appellant's Am. Br. at 32. We review for an abuse of discretion both a trial court's decision on whether to excuse a juror and whether to declare a mistrial. *Joyner v. State*, 736 N.E.2d 232, 238 (Ind. 2000) (citing *Wisehart v. State*, 693 N.E.2d 23, 55 (Ind. 1998)); *Ramirez v. State*, 7 N.E.3d 933, 936 (Ind. 2014) (citing *Gregory v. State*, 540 N.E.2d 585, 589 (Ind. 1989)). An abuse of discretion occurs if the trial court's decision is "clearly against the logic and effect of the facts and circumstances and the error affects a party's substantial rights." *Jennings v. Smiley*, 249 N.E.3d

1071, 1075 (Ind. 2025) (quoting *Hall v. State*, 36 N.E.3d 459, 466 (Ind. 2015)), *reh'g denied* (Mar. 25, 2025).

[15] Article 1, Section 13 of the Indiana Constitution enshrines a defendant's right to an impartial jury. "[C]ourts have a duty to ensure an impartial jury," but "jurors need not be absolutely insulated from all extraneous influences." *Ramirez*, 7 N.E.3d at 936 (quoting *Caruthers v. State*, 926 N.E.2d 1016, 1021 (Ind. 2010)). Biased jurors must be dismissed. *Caruthers*, 926 N.E.2d at 1020 (citing *Joyner*, 736 N.E.2d at 232). "A juror's bias may be actual or implied, but a court must remove a juror for implied bias—that is, regardless of actual bias—only where a relationship exists between the juror and one of the parties." *Id.* (citing *Joyner*, 736 N.E.2d at 238). A constitutionally unbiased juror "is one who is able and willing to lay aside his or her prior knowledge and opinions, follow the law as instructed by the trial judge, and render a verdict based solely on the evidence presented in court." *Whiting v. State*, 969 N.E.2d 24, 28 (Ind. 2012).

[16] Romero specifically argues that (a) the "classroom relationship . . . created an unacceptable risk of implied bias," Appellant's Am. Br. at 32, and (b) the non-disclosure deprived him of the use of a peremptory strike. We address each argument in turn.

a. Implied Bias

[17] Romero contends that we should infer that Juror 24 was impliedly biased based on her "professional proximity" to O.I. Appellant's Am. Br. at 33. It is true

that "when a juror has some connection to the case," bias may be inferred. *Lee v. State*, 735 N.E.2d 1112, 1115 (Ind. 2000) (citing *Threats v. State*, 582 N.E.2d 396, 398 (Ind. Ct. App. 1991)). In such cases, the trial court should analyze the potential bias by weighing "the nature and extent of the relationship versus the ability of the juror to remain impartial." *Id.* (quoting *McCants v. State*, 686 N.E.2d 1281, 1284–85 (Ind. 1997)).

[18] Romero does not claim a close relationship existed between Juror 24 and O.I.—nor could he. Instead, Romero asserts that Juror 24's "professional role . . . as a skills coach with children involving behavioral, ADHD, autism, or DCS-related needs," Appellant's Am. Br. at 37, "created a special risk that she would view [O.I.] through a protective or professional lens rather than as a neutral fact witness," *id.* at 38. This is pure speculation. The relationship between Juror 24 and O.I.—assuming it qualifies as such—was attenuated and limited. *See Alvies v. State*, 795 N.E.2d 493, 500–03 (Ind. Ct. App. 2003) (holding a casual or attenuated relationship has a limited potential for bias), *trans. denied*. Juror 24 and O.I. were not related and had never even had a casual conversation with one another. Here, the trial court weighed this casual-at-best relationship against Juror 24's assurance that she would remain impartial and determined that it did not "have any basis to believe this juror can be anything but the unbiased and impartial juror that we expect her to be and all of our jurors to be." Tr. Vol. II at 171. This determination was not illogical or arbitrary.

b. Non-Disclosure

[19] Romero argues that Juror 24's non-disclosure during voir dire that she worked in O.I.'s classroom with other children prejudiced him by depriving him of the use of a peremptory challenge.[3] "Generally, proof that a juror . . . lied during voir dire entitles a defendant to a new trial." *Loehrlein v. State*, 158 N.E.3d 768, 771 (Ind. 2020) (quoting *State v. Dye*, 784 N.E.2d 469, 473 (Ind. 2003)). An "innocent non-disclosure" may also entitle a defendant to a new trial if the juror "failed to answer honestly a material question" *and* the "correct response would have provided a valid basis for a challenge for cause." *Dye*, 784 N.E.2d at 473. "A defendant seeking a new trial because of juror misconduct must show two things: 1) gross misconduct; and 2) that the gross misconduct probably harmed the defendant." *Loehrlein*, 158 N.E.3d at 771 (quoting *Dye*, 784 N.E.2d at 473).

[20] Romero claims that Juror 24's late disclosure that she worked in O.I.'s classroom kept him from striking her as a juror due to bias.[4] Although bias against a defendant is a valid good cause challenge, Ind. Code § 35-37-1-5, we have already concluded that Romero failed to prove Juror 24 was biased.

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[3] Romero cites to this court's opinion in *Loehrlein v. State*, 142 N.E.3d 966 (Ind. Ct. App. 2020), which reversed a conviction due to juror non-disclosure. That appellate opinion was vacated by the Indiana Supreme Court when it granted transfer. *Loehrlein v. State*, 149 N.E.3d 602 (Ind. 2020). On transfer, the Indiana Supreme Court concluded that the juror's non-disclosure did not probably harm the defendant, so it affirmed his convictions. *Loehrlein v. State*, 158 N.E.3d 768, 774 (Ind. 2020).

[4] Romero does not include the juror questionnaire in his appendix, so it is unclear what Juror 24 was specifically asked about the nature of her work. During voir dire, Juror 24 did not recognize O.I.'s name when the trial court read the list of potential witnesses, and there were no questions directed at Juror 24 about the nature of her work.

Accordingly, there was no "valid basis" to challenge Juror 24 for cause. *See Dye*, 784 N.E.2d at 473.

[21] Based on the record and briefing before us, we cannot say that Juror 24 was biased or that there was a valid basis to remove her for cause, so the trial court did not abuse its discretion in denying Romero's motion to remove Juror 24.[5] Romero nevertheless argues that he suffered prejudice by not being able to use a peremptory challenge. In making this argument, Romero relies on cases analyzing gross misconduct and striking jurors for cause. Romero cites to no authority that has concluded that the loss of the use of a peremptory challenge following a juror's non-disclosure is a sufficient reason to reverse a conviction. Nor is it clear from the record whether he, in fact, had any peremptory challenges remaining. For these reasons, we conclude Romero has not supplied cogent reasoning on this issue. *See* Appellate Rule 46(A)(8)(a) (requiring cogent reasoning). The trial court did not abuse its discretion by denying Romero's motion for a mistrial. *See Joyner*, 736 N.E.2d at 239 (concluding the lack of bias supported the trial court's denial of a motion for mistrial). Moreover, on appeal, Romero does not argue that Juror 24's innocent delayed disclosure amounted to gross misconduct, and we do not have any reason to believe that

[5] Romero also asserts that the trial court's questioning of Juror 24 was too limited and failed to "adequately test the risk of implied bias." Appellant's Am. Br. at 35. Romero was given the opportunity to question Juror 24 at trial and did not object that the trial court's examination of her was too limited. It is well established that arguments raised for the first time on appeal are generally waived. *Plank v. Cmty. Hosps. Ind., Inc.*, 981 N.E.2d 49, 53 (Ind. 2013) (quoting *Freytag v. C.I.R.*, 501 U.S. 868, 895 (1991)). Accordingly, we decline to address Romero's appellate argument on the depth of the trial court's questioning of Juror 24.

Juror 24's conduct probably harmed him. Accordingly, Romero is not entitled to a new trial. *See Loehrlein*, 158 N.E.3d at 771 (quoting *Dye*, 784 N.E.2d at 473).

2. The State Presented Sufficient Evidence to Support Romero's Conviction

[22] Romero argues that the State presented insufficient evidence at trial to support his conviction for burglary as a Level 1 felony. Our standard of review for such a claim is as follows:

> "A conviction is supported by sufficient evidence if 'there is substantial evidence of probative value supporting each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.'" *Hancz-Barron v. State*, 235 N.E.3d 1237, 1244 (Ind. 2024) (quoting *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015)). This Court reviews only the evidence most favorable to the verdict and the reasonable inferences therefrom, and will reverse only where it is shown that "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." [*Teising v. State*, 226 N.E.3d 780, 783 (Ind. 2024)].

Konkle v. State, 253 N.E.3d 1068, 1090–91 (Ind. 2025). We do not reweigh the evidence or reassess witness credibility. *Id.* at 1090 (quoting *Teising*, 226 N.E.3d at 783).

[23] In order to convict Romero as charged of burglary under Indiana Code section 35-43-2-1(4), the State had to prove beyond a reasonable doubt that Romero broke and entered Ibarra's dwelling "with intent to commit a felony . . . in it,"

and such breaking and entering resulted "in serious bodily injury to" Cardoso. Romero argues that the State did not prove that (1) he was armed with a deadly weapon when he broke in, (2) he intended to commit a felony when he broke into Ibarra's home, and (3) the burglary itself resulted in Cardoso's injury. We address each argument in turn.

[24] First, Romero claims there was insufficient evidence that he was armed with a deadly weapon during the burglary because the evidence was "internally uncertain." Appellant's Am. Br. at 20. A "deadly weapon" includes a "loaded or unloaded firearm" or a "weapon, device . . . or other material that in the manner it . . . is used . . . is readily capable of causing serious bodily injury[6]." I.C. § 35-31.5-2-86(a). Whether a weapon is "deadly" is a fact-sensitive inquiry in which the factfinder considers the "description of the weapon, the manner of its use, and the circumstances of the case." *Grogg v. State*, 156 N.E.3d 744, 749 (Ind. Ct. App. 2020) (quoting *Geason v. State*, 965 N.E.2d 702, 708 (Ind. Ct. App. 2012)), *trans. denied*.

[25] The probative evidence and reasonable inferences supporting the verdict show that Romero "grabbed [his] gun and . . . put it in [his] waist with [his] holster" before driving to Ibarra's house. Tr. Vol. III at 36. Romero also carried a large wrench—approximately 17 inches long—up to Ibarra's door, broke down

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[6] "Serious bodily injury" is "bodily injury that creates a substantial risk of death or that causes" (1) "serious permanent disfigurement," (2) "unconsciousness," (3) "extreme pain," (4) "permanent or protracted loss or impairment of the function of a bodily member or organ," or (5) "loss of a fetus." I.C. § 35-31.5-2-292.

Ibarra's door, and swung the wrench at Ibarra like a weapon. Considering the size of the wrench and Romero's manner of using it, the jury could reasonably conclude the wrench was a deadly weapon under the circumstances of this case.

[26] To the extent Romero is arguing the State failed to prove he was armed with both deadly weapons when he broke into the house, this is a clear request to reweigh the evidence and reassess witness credibility, which we will not do, *see Konkle*, 253 N.E.3d at 1090 (quoting *Teising*, 226 N.E.3d at 783). The evidence supporting the verdict includes the following: Romero testified that he put his firearm in his holster before driving to Ibarra's home; Ibarra testified that Romero pulled out his handgun from his waistband; O.I. testified that Romero approached the house with what she believed was a wrench; Cardoso testified that when Romero broke in, he had a large wrench; Ibarra testified that the wrench was not at her house before Romero broke in. The jury could have reasonably inferred that Romero was armed with both deadly weapons when he broke and entered into Ibarra's home.

[27] Second, Romero claims that the State failed to demonstrate that he intended to commit battery with a deadly weapon when he broke and entered Ibarra's home. "A person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to do so." I.C. § 35-41-2-2(a).

> "Knowledge and intent are both mental states and, absent an admission by the defendant, the jury must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question." *Stubbers*

> *v. State*, 190 N.E.3d 424, 432 (Ind. Ct. App. 2022), *trans. denied*. As such, "[k]nowledge or intent may be proven by the defendant's conduct and the natural and usual sequence to which such conduct logically and reasonably points." *Id.*

Konkle, 253 N.E.3d at 1091–92 (alteration in original).

[28] Here, the probative evidence and reasonable inferences supporting the verdict show that Romero was "blowin[g] up" Ibarra's phone. Tr. Vol. II at 233. Romero texted Ibarra, accusing her of being with someone else and of being "scared" to answer her phone. Tr. Vol. IV at 18. Getting no response from Ibarra, Romero armed himself with a handgun before driving so quickly to Ibarra's house that O.I. could not fasten her seatbelt. When Romero arrived at Ibarra's house, he saw Cardoso's vehicle in the driveway, so he walked up to the front door, carrying a large wrench "[c]apable of inflicting serious bodily injury," Tr. Vol. II at 250. Romero tried to hit Ibarra with the wrench as soon as he smashed through the front door. Romero then said, "I'll kill him," before striking Cardoso in the head with the handgun and shooting him in the shoulder. *Id.* at 219. Romero nevertheless claims that there is no evidence of intent other than "a later, chaotic, and unexplained shooting." Appellant's Am. Br. at 18. Again, we will not reweigh the evidence or reassess witness credibility on appeal, *see Konkle*, 253 N.E.3d at 1090 (quoting *Teising*, 226 N.E.3d at 783). The jury could have reasonably inferred that Romero broke and entered Ibarra's home armed with deadly weapons, intending to commit battery with a deadly weapon.

[29] Last, Romero contends the State failed to prove that Cardoso's serious bodily injuries were the result of the burglary. Specifically, Romero claims the State failed to "establish how the shot occurred, who was where when it was fired, whether the firearm was intentionally discharged, or whether the serious injury resulted from the burglary itself rather than an intervening struggle or accidental discharge during a confrontation." Appellant's Am. Br. at 19. Romero's arguments on appeal are essentially requests for us to credit his version of the events over the version presented by the State's witnesses. Romero's opportunity to make such an argument occurred during trial. We have already concluded that there was sufficient evidence to prove Romero intended to commit battery with a deadly weapon when he broke and entered Ibarra's home, and Romero does not dispute Cardoso's injuries were serious. Thus, a reasonable jury could find that Cardoso's injuries were the result of the burglary. For the foregoing reasons, we conclude the State presented sufficient evidence to support Romero's conviction.[7]

3. Romero's Sentence Is Not Inappropriate under Appellate Rule 7(B)

[30] Finally, Romero argues his sentence is inappropriate under Appellate Rule 7(B) and should be revised.[8] The Indiana Constitution authorizes us to

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[7] Romero also challenges the sufficiency of the evidence supporting the jury's verdict finding him guilty of burglary as a Level 2 felony. Because we have concluded the State presented sufficient evidence to support Romero's conviction for burglary as a Level 1 felony and because the trial court entered a conviction on only the Level 1 felony, we do not address Romero's claims as to the Level 2 felony. *See Stubbers v. State*, 190 N.E.3d 424, 431 n.3 (Ind. Ct. App.), *trans. denied*, 196 N.E.3d 685 (Ind. 2022).

[8] As part of his Appellate Rule 7(B) claim, Romero seemingly challenges the weight the trial court placed on certain aggravators and mitigators. *See* Appellant's Am. Br. at 25, 29. "Because the trial court no longer has

independently review and revise a trial court's sentencing decision. *Tillett v. State*, 278 N.E.3d 359, 366 (Ind. 2026) (citing Ind. Const. art. 7, §§ 4, 6), *reh'g denied* (July 9, 2026). That authority is implemented through Appellate Rule 7(B). The defendant must produce compelling evidence that the sentence is inappropriate based on the nature of the offense, the defendant's character, or both. *Id.* (quoting *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)); *Lane v. State*, 232 N.E.3d 119, 126 (Ind. 2024) (quoting *Connor v. State*, 58 N.E.3d 215, 219 (Ind. Ct. App. 2016)).

[31] Whether a sentence is inappropriate "turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Tillett*, 278 N.E.3d at 366 (quoting *McCain v. State*, 148 N.E.3d 977, 985 (Ind. 2020)). "[W]e are not limited to the mitigators and aggravators found by the trial court." *Brown v. State*, 10 N.E.3d 1, 4 (Ind. 2014). Considering the trial court's wide discretion on sentencing matters, only "exceptional cases" warrant sentence revisions, *Tillett*, 278 N.E.3d at 366 (quoting *Russell v. State*, 234 N.E.3d 829, 856 (Ind.), *cert. denied*, 145 S. Ct. 424 (2024)).

[32] A trial judge may impose any sentence within the statutory range without regard to the existence of aggravating or mitigating factors. *Anglemyer v. State*,

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any obligation to 'weigh' aggravating and mitigating factors against each other when imposing a sentence, unlike the pre-*Blakely* statutory regime, a trial court can not now be said to have abused its discretion in failing to 'properly weigh' such factors." *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007) (citing *Jackson v. State*, 728 N.E.2d 147, 155 (Ind. 2000); *Morgan v. State*, 675 N.E.2d 1067, 1073–74 (Ind. 1996)).

868 N.E.2d 482, 489 (Ind. 2007). When considering the nature of the offense, we start with the advisory sentence. *Brown*, 10 N.E.3d at 4 (citing *Anglemyer*, 868 N.E.2d at 494). Here, Romero was convicted of and sentenced on one Level 1 felony. "[A] person who commits a Level 1 felony . . . shall be imprisoned for a fixed term of between twenty (20) and forty (40) years, with *the advisory sentence being thirty (30) years*." I.C. § 35-50-2-4(b) (emphasis added). On his Level 1 felony conviction, the trial court sentenced Romero to 35 years executed at the Indiana Department of Correction.

[33] Where, as here, the trial court deviated from the advisory sentence, one factor we consider is "whether there is anything more or less egregious about the offense committed by the defendant that makes it different from the 'typical' offense accounted for by the legislature when it set the advisory sentence." *T.A.D.W. v. State*, 51 N.E.3d 1205, 1211 (Ind. Ct. App. 2016) (quoting *Holloway v. State,* 950 N.E.2d 803, 806–07 (Ind. Ct. App. 2011)), *as amended* (May 26, 2023). We also consider whether the offense was "accompanied by restraint, regard, and lack of brutality." *Tillett*, 278 N.E.3d at 366 (quoting *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015)).

[34] Romero woke up 11-year-old O.I., who was staying at his house, to speed over to Ibarra's house because he suspected Ibarra was with another man. Romero smashed through the front door, tried to hit Ibarra with a wrench, struck Cardoso in the head with a handgun, and shot Cardoso after he fell onto the couch. Cardoso's shoulder will "[n]ever" be the same again, Tr. Vol. II at 223; he had undergone two surgeries by the time of trial and will need more in the

future. O.I. could hear her mother screaming in the house from Romero's vehicle, and since that night, she has suffered from anxiety; she "pulls her hair out," is startled by "[l]oud noises," and "the dark terrifies her." Appellee's App. Vol. II at 42. Romero nevertheless argues that the nature of the offense warrants revision because despite Cardoso's "injury, [O.I.'s] trauma, and multiple victims[,] . . . the case resulted in one conviction and one sentence." Appellant's Am. Br. at 25. Regardless of the number of convictions, the fact remains that Romero shot Cardoso and caused significant emotional damage to others.

[35] In considering the character of the offender, "we engage in a broad consideration of a defendant's qualities," *T.A.D.W.*, 51 N.E.3d at 1211 (citing *Aslinger v. State*, 2 N.E.3d 84, 95 (Ind. Ct. App. 2014), *clarified on other grounds on reh'g*), including whether the defendant has "substantial virtuous traits or persistent examples of good character," *Tillett*, 278 N.E.3d at 366 (quoting *Stephenson*, 29 N.E.3d at 122).

[36] Romero has one prior adult conviction for possession of paraphernalia. In 2017, Romero was charged with residential entry and criminal mischief, and he successfully completed pre-trial diversion, resulting in the charges being dismissed. While participating in that pre-trial diversion program, Romero was charged with possession of marijuana; this charge was dismissed as well following successful completion of another pre-trial diversion program. Romero argues that his minimal criminal history, steady employment, family support, and church involvement support revising his sentence because his

"character evidence weighs strongly toward a lower sentence." Appellant's Am. Br. at 28. While these qualities may be commendable, they are not so substantially virtuous or indicative of persistent examples of good behavior as to outweigh the nature of Romero's offense.

[37] Based on the foregoing, we cannot say that Romero has produced compelling evidence demonstrating that the nature of his offense or his character renders his sentence inappropriate. *See Lane*, 232 N.E.3d at 119. Romero's sentence is not inappropriate under Appellate Rule 7(B).

Conclusion

[38] In sum, the trial court did not abuse its discretion by denying Romero's motions to remove a juror and for a mistrial, the State presented sufficient evidence to support Romero's conviction, and Romero's sentence is not inappropriate. We therefore affirm the trial court on all issues raised.

[39] Affirmed.

Tavitas, C.J., and Bradford, J., concur.

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