MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Matthew J. McGovern
Fishers, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Kathy J. Bradley
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Mateo Reymundo Rodriguez,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 18, 2024

Court of Appeals Case No. 23A-CR-1419

Appeal from the Vanderburgh Circuit Court

The Honorable David D. Kiely, Judge

The Honorable Ryan C. Reed, Magistrate

Trial Court Cause No. 82C01-2204-MR-1891

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

[1] Mateo Rodriguez appeals his conviction for felony murder[1] and his corresponding fifty-five-year sentence. We affirm.

Issues

[2] Rodriguez raises two issues for our review:

1. Whether the State presented sufficient evidence to demonstrate that he committed the underlying offense of robbery to support his conviction for felony murder.

2. Whether his sentence is inappropriate in light of the nature of the offenses and his character.

Facts and Procedural History

[3] Shortly after 9:00 p.m. on April 3, 2022, Megan Schaefer drove her car to a gas station in Evansville, where she was to meet her friend, Anthony Short. When Schaefer arrived, she encountered sixteen-year-old Rodriguez and Dorian Givens, who asked Schaefer to buy them some cigarillos. Schaefer indicated that Short was going to arrive shortly and that she would arrange for Short to buy the young men cigarillos. When Short arrived, Schaefer's car was already

[1] Ind. Code § 35-42-1-1(2).

at a gas pump. Short agreed to enter the gas station, pay for Schaefer's gas, and buy the cigarillos. Short then gave the cigarillos to Rodriguez and Givens and went to Schaefer's car to pump gas. At some point, Shauntay Fairrow drove her white Honda Civic to the same gas station. Fairrow parked and exited her car, but she left the car running and the doors unlocked.

[4] After Rodriguez obtained his cigarillos, he got into the driver's seat of Fairrow's car. He then put the car in reverse and began to leave, but he backed into Schaefer's car, which was still parked at a gas pump. Short, who was outside the car pumping gas, went to the driver's side of Fairrow's vehicle and knocked on the window in an attempt to get Rodriguez's attention. At the same time, Schaefer exited her car and initially went to the back of Fairrow's car and began banging loudly on the trunk to get Rodriguez's attention. Schaefer then went to the front of Fairrow's car and "tried to just put her hands on the car to . . . stop it." Tr. Vol. 2 at 119-20. However, Rodriguez "punched the gas" and drove forward, running over Schaefer. *Id*. at 120. Rodriguez then "took off," left the gas station in Fairrow's car, and parked the car in an alley close to his house. *Id*. at 123. Schaefer sustained numerous injuries, including blunt force injuries to her head, which caused her death.

[5] The State charged Rodriguez with murder, a felony (Count 1);[2] felony murder (Count 2); robbery, as a Level 2 felony (Count 3);[3] leaving the scene of an accident, as a Level 4 felony (Count 4);[4] failure to remain at the scene of an accident, as a Level 4 felony (Count 5);[5] and theft, as a Level 6 felony (Count 6).[6] On May 23, 2022, while in custody, Rodriguez participated in a recorded phone call with another individual. During the phone call, Rodriguez stated: "Don't play superman and you don't get hurt, that's all I got to say." Tr. Vol. 3 at 17.

[6] The court held a two-day jury trial beginning on May 3, 2023, during which Short and Fairrow testified to the events that had occurred at the gas station. At the conclusion of the trial, the jury found Rodriguez guilty as charged for Counts 2 through 6. For Count 1, the jury found him guilty of the lesser included offenses of involuntary manslaughter, as a Level 5 felony. At a subsequent sentencing hearing, the court entered judgment of conviction as to Counts 2 and 4 only. The court then found as mitigating the fact that Rodriguez was sixteen years old at the time of the offenses, that he was likely to respond well to supervision, and that he expressed remorse. As aggravating

---

[2] I.C. § 35-42-1-1(1).

[3] I.C. § 35-42-5-1(a)(1).

[4] I.C. §§ 9-26-1-1.1(a)(1) and (b)(3).

[5] I.C. §§ 9-26-1-1.1(a)(2) and (b)(3).

[6] I.C. § 35-43-4-2(a)(1)(B)(ii).

factors, the court identified Rodriguez's prior history of delinquent behavior and that he was a high risk to reoffend. The court determined that the mitigating and aggravating factors "balance[d] themselves out" and sentenced Rodriguez to the advisory term of fifty-five years on Count 2 and ten years on Count 4, to run concurrently, for an aggregate term of fifty-five years in the Department of Correction. *Id*. at 74. This appeal ensued.

Discussion and Decision

Issue One: Sufficiency of the Evidence

[7] Rodriguez first asserts that the State failed to present sufficient evidence to prove that he committed felony murder. Our standard of review on a claim of insufficient evidence is well settled:

> For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. *Id*. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id*.

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

[8] To demonstrate that Rodriguez committed felony murder as charged, the State was required to prove that he had killed Schaefer while committing or attempting to commit a robbery. *See* Ind. Code § 35-42-1-1(2). On appeal, Rodriguez asserts that the State failed to prove that he committed an underlying

robbery. Indiana Code Section 35-42-5-1(a) defines robbery, in relevant part, as "knowingly or intentionally tak[ing] property from another person or from the presence of another person . . . by using or threatening the use of force on any person[.]"

[9] Rodriguez concedes that he knowingly or intentionally took Fairrow's car and that Schaefer was harmed in the process. However, he contends that the "taking of the property and the 'asportation of it' in this case all occurred *before the use of any force*." Appellant's Br. at 21 (emphasis in original). He asserts that he entered Fairrow's unlocked car and "simply drove away" and that he was in "full possession of the white Honda Civic and had escaped capture" before he hit Schaefer. *Id*. Thus, he maintains that his only offense was auto theft, not robbery, such that he did not commit felony murder.[7]

[10] To support his assertion, Rodriguez attempts to distinguish this case from our Supreme Court's decision in *Young v. State*, 725 N.E.2d 78 (Ind. 2000).[8] Specifically, he argues that, unlike *Young* where the defendant was not yet in control of the victim's property when the defendant used force, he was in

---

[7] Auto theft is not one of the enumerated crimes that support a conviction for felony murder. *See* I.C. § 35-42-1-1(2).

[8] Rodgriguez cites our Supreme Court's decision in *Shinn v. State*, in which the Court held that, in order to constitute a robbery, the "taking must not precede the violence or putting in fear. In other words, the violence or putting in fear will not make a precedent taking, effected clandestinely or without either violence or putting in fear, amount to a robbery." 64 Ind. 13, 17 (1878). However, as Rodriguez acknowledges, *Shinn* has been "effectively overruled." *Young v. State*, 725 N.E.2d 78, 87 n.1 (Ind. 2000).

complete control of the car prior to hitting Schaefer and, thus, there was no robbery. We cannot agree.

[11] In *Young*, Young entered the home of the victim, asked for change, shoved the victim, and snatched the victim's wallet. *Id*. at 80. Young then ran to his car while being pursued by the victim. *Id*. The victim reached into Young's car and attempted to remove the keys from the ignition but was unsuccessful because Young hit the victim with a screwdriver. *Id.* Young accelerated his car forward, and the victim in an attempt to stop Young's escape, remained grasping to the side of the car. *Id.* However, the victim eventually fell from the side of the car and was run over by Young. *Id.* Young was convicted of robbery resulting in serious bodily injury.

[12] On appeal, Young made a substantially similar argument to Rodriguez in that he argued the seizure of the victim's property was already complete by the time he hit the victim with a screwdriver and drove away. However, our Supreme Court disagreed and upheld his conviction. *Id*. at 81. The court reasoned that the force effectuating Young's escape, which included hitting the victim with the screwdriver and driving over the victim, was a part of the robbery because the entire series of events was "continuous in its purpose and objective" such that it was "deemed to be a single uninterrupted transaction." *Id*. Indeed, the Court held that the "snatching of money, exertion of force, and escape were so closely connected in time (to sprint from house to running car parked outside), place (from door to alley), and continuity (in stealing money, then attempting to

escape with it)," that Young's "taking of property includes his actions in effecting his escape." *Id*.

[13] Such is the case here. Although we acknowledge that Rodriguez entered Fairrow's car without resistance or violence, the crime was not complete at that point. It is not until the property is successfully removed from the premises or the person's presence that a robbery is complete. *See Coleman v. State*, 653 N.E.2d 481, 482 (Ind. 1995). Rodriguez had only started to leave the premises with Fairrow's car when he backed into Schaefer's car, at which point Schaefer exited the vehicle and stood in front of Rodriguez in an attempt to get him to stop.[9] At that point, Rodriguez accelerated quickly, ran over Schaefer, and fled the scene.

[14] In all, approximately two minutes had elapsed between the time that Fairrow arrived at the scene and the time that Rodriguez fled the parking lot. As in *Young*, the intentional taking of Fairrow's car and Rodriguez's use of force to leave the parking lot were so closely connected in time, place, and continuity that the crime includes the force used by Rodriguez to drive the car away from the parking lot. Accordingly, we hold that there is sufficient evidence to show

[9] Rodgriguez points out that, while Short and Schaefer tried to stop him from leaving, they only did so "to investigate [his] act of striking [Schaefer's] vehicle," not to stop the auto theft. Appellant's Br. at 23. However, it is irrelevant that Short and Schaefer did not know the car was being stolen or that they did not attempt to stop the auto theft. Regardless of their knowledge or intention, the fact remains that Rodriguez was in the process of stealing the car when he used force against Schaefer to leave the parking lot.

that Rodriguez knowingly or intentionally took Fairrow's car by the use of force. We therefore affirm his conviction for felony murder.[10]

Issue Two: Sentencing

[15] Rodriguez next contends that his sentence is inappropriate in light of the nature of the offenses and his character. Indiana Appellate Rule 7(B) provides that "[t]he 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." This Court has recently held that "[t]he advisory sentence is the starting point the legislature has selected as an appropriate sentence for the crime committed." *Sanders v. State*, 71 N.E.3d 839, 844 (Ind. Ct. App. 2017). And the Indiana Supreme Court has recently explained that:

> The principal role of appellate review should be to attempt to leaven the outliers . . . but not achieve a perceived "correct" result in each case. *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). Defendant has the burden to persuade us that the sentence imposed by the trial court is inappropriate. *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind.), as amended (July 10, 2007), *decision clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007).

---

[10] Rodriguez requests that we "ask our Supreme Court to reconsider" its decision in *Young*. Appellant's Br. at 27. Specifically, he contends that *Young* violates the rule of lenity, expands the common law interpretation of robbery in the absence of our legislature's declared intent to do so, and invades the province of our legislature. However, Rodriguez attempted to distinguish this case from *Young*, but we disagreed with that analysis. We are not inclined to encourage our Supreme Court to revise *Young* based on its application to these facts.

Shoun v. State, 67 N.E.3d 635, 642 (Ind. 2017) (omission in original).

[16] Indiana's flexible sentencing scheme allows trial courts to tailor an appropriate sentence to the circumstances presented, and the trial court's judgment "should receive considerable deference." *Cardwell*, 895 N.E.2d at 1222. Whether we regard a sentence as inappropriate at the end of the day turns on "our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other facts that come to light in a given case." *Id*. at 1224. The question is not whether another sentence is more appropriate, but rather whether the sentence imposed is inappropriate. *King v. State*, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008). Deference to the trial court "prevail[s] unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant's character (such as substantial virtuous traits or persistent examples of good character)." *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[17] The sentencing range for murder is forty-five to sixty-five years, with an advisory sentence of fifty-five years. I.C. § 35-50-2-3(a). And the sentencing range for a Level 4 felony is two years to twelve years, with an advisory sentence of six years. I.C. § 35-50-2-5.5. Here, the court identified as aggravating factors that Rodriguez was a high risk to reoffend and that he had a history of delinquent behavior. As mitigators, the court identified his age, that he is likely to respond well to supervision, and that he expressed remorse. The court found that the aggravators and mitigators balanced each other out and sentenced him to the advisory sentence of fifty-five years on the felony murder

conviction. The court then sentenced him to a concurrent term of ten years on his Level 4 felony conviction.

[18] On appeal, Rodriguez contends that his sentence is inappropriate in light of the nature of the offenses because, while Schaefer's death was "unquestionably tragic and senseless," he "did not commit any acts of brutality on her." Appellant's Br. at 37. Rather, he contends that he "accidentally" hit Schaefer as he left the scene of an accident. *Id*. As for his character, Rodriguez contends that an aggregate fifty-five-year sentence is inappropriate because he was only sixteen years old at the time of the offenses. And, while he acknowledges that he has a "criminal history," he contends that it is a "minor one," consisting of only "nonviolent offenses" as a juvenile. *Id*. at 36.

[19] However, Rodriguez has not met his burden on appeal to demonstrate that his sentence is inappropriate. With respect to the nature of the offenses, Rodriguez decided to steal a vehicle from a gas station parking lot. Once he entered the vehicle, he backed into Schaefer's car. Then, despite the fact that Schaefer had moved to stand in front of Fairrow's car to stop him, Rodriguez accelerated, ran over Schaefer, fled the scene, and hid the stolen car in an alley. And later, during a recorded phone call, Rodriguez appeared to blame Schaefer when he stated that she would not have gotten hurt if she had not tried to play Superman. Rodriguez has not presented compelling evidence portraying the nature of the offenses in a positive light. *See Stephenson*, 29 N.E.3d 111, 122.

[20] As for his character, we acknowledge that Rodriguez was only sixteen years of age at the time he committed the instant offenses. However, the court already took that into consideration and identified it as a mitigator when it sentenced Rodriguez. Further, despite his young age, Rodriguez had already accumulated three juvenile delinquency referrals and two delinquency adjudications. While we acknowledge that Rodriguez's criminal history is not extensive and consists of nonviolent offenses, it is clear that his delinquent behavior has escalated to more serious crimes. We cannot say that Rodriguez's sentence is inappropriate in light of the nature of his character.

Conclusion

[21] The State presented sufficient evidence to demonstrate that Rodriguez used force to take Fairrow's car, which supports Rodriguz's conviction for felony murder. And his sentence is not inappropriate in light of the nature of the offenses and his character. We affirm his conviction and sentence.

[22] Affirmed.

May, J., and Felix, J., concur.