

## 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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Alan Joseph Marantos,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 17, 2022

Court of Appeals Case No.  
21A-CR-2030

Appeal from the Jennings Circuit  
Court

The Honorable Murielle S. Bright,  
Judge

Trial Court Cause No.  
40C01-2005-MR-2

**Bradford, Chief Judge.**

## Case Summary

- [1] On March 27, 2020, Alan Joseph Marantos attended a birthday party for Brian Kirby. During the party, Marantos and Kirby got into an argument, which escalated to the point that Marantos beat Kirby to death. In the days that followed, Marantos dismembered and burned Kirby's body before disposing of Kirby's remains at various locations. The State subsequently charged Marantos with various crimes, including murder. Marantos agreed to plead guilty to murder in exchange for the dismissal of the other charges. The trial court accepted Marantos's guilty plea and sentenced Marantos to a sixty-five-year term of imprisonment. On appeal, Marantos contends that his sentence is inappropriate in light of the nature of his offense and his character. We affirm.

## Facts and Procedural History

- [2] On March 27, 2020, Marantos, his wife, and his wife's son attended a birthday party for Kirby at the home of a mutual friend, Darlena Engelking. During the party, Kirby and Marantos got into an argument about a lost set of keys.
- [3] After the argument turned physical, Marantos threw Kirby up against the refrigerator in the kitchen of the house before throwing Kirby outside onto the porch. He then threw Kirby over the porch railing onto the ground. While Kirby was screaming for Engelking to help him, Marantos jumped over the railing onto Kirby, covered Kirby's mouth, and "savagely beat him in the head." Tr. Vol. II p. 33. By the time Marantos stopped, Kirby was not moving,

his eyes were swollen shut, and he was “bleeding profusely all over his head.” Tr. Vol. II p. 34. Marantos picked Kirby up, placed him over his shoulder, and put Kirby’s limp body into the back of Engelking’s truck. Marantos then went inside the house, laughing, and stated “I’m fu[\*\*]ed” or “oh sh[\*\*] I think I fu[\*\*]ed up.” Tr. Vol. II p. 34. Marantos’s fourteen-year-old stepson witnessed Marantos beating Kirby. Marantos threatened his stepson, telling him that “if you tell anybody I’ll kill your mom and then I’ll kill you.” Tr. Vol. II p. 32.

[4] Later that evening or early the next morning, Marantos went to another friend’s house. He was “frantic,” “talking 100 mph,” and “talking in circles.” Appellant’s App. Vol. II p. 19. Marantos appeared high and his friend believed he had been “up on [m]eth for a while.” Appellant’s App. Vol. II p. 19. Marantos was shirtless and had mud and what appeared to be blood on his shorts. Marantos claimed to have fallen in mud and asked for a change of clothes. Marantos also told his friend that he had gotten into a fight with Kirby because Kirby would not help him find some lost keys. Marantos also stated that he “hit the old man and beat him up” and that he thought that he “took it too far.” App. Vol. II 19. Marantos left a broken cell phone at the home, which was later identified as Kirby’s.

[5] Marantos took Kirby’s body back to his residence in the truck. Over the next four days, Marantos dismembered and burned Kirby’s body in his firepit. The fire caused a loud explosion and the flames rose as high as the tops of nearby trees. On April 2, 2020, Marantos was seen driving a truck, “carrying a large pile of ash” in the bed of the truck. Tr. Vol. II p. 67. Marantos and his wife

subsequently took the truck to a self-serve gas station, where they spent fifty minutes “meticulous[ly]” cleaning out the truck bed, pushing pieces of bone fragments down a drainage grate. Tr. Vol. II p. 70. They then returned the truck to Engelking, who thought it was odd that they would wash her truck because it was raining.

[6] Kirby’s daughter reported Kirby missing on March 28, 2020, telling police that Kirby had gone to a friend’s house to attend a party and never returned home. Soon thereafter, Indiana State Police Detective Kipp Maine began to investigate the “suspicious circumstances” regarding Kirby’s disappearance. Tr. Vol. II p. 15. Detective Maine interviewed individuals who had been at the party, learning that Kirby and Marantos had argued before attendees claimed that Kirby walked away from Engelking’s residence. However, Marantos’s stepson eventually told Detective Maine that Marantos had beaten Kirby until he was unconscious before putting Kirby’s body into the truck.

[7] Shortly after the investigation started, Marantos became a suspect in both Kirby’s disappearance and in an unrelated armed robbery in Seymour, and law enforcement began conducting surveillance on Marantos. During this surveillance, Marantos was seen dropping a plastic shopping bag containing what was later determined to be Kirby’s charred, severed foot near a bridge. At some point, having realized that he was being followed, Marantos led police on a high-speed chase reaching speeds in excess of ninety-five miles per hour. The chase ended when Marantos wrecked and flipped his vehicle, climbed over his wife and out the sunroof, and ran through nearby fields. Detective Maine and

another officer located Marantos, caught up to him in the woods, stopped him, and placed him under arrest.

- [8] Following Marantos's arrest, law enforcement located a firepit outside his residence. Ross Keasling of the Indiana State Fire Marshall's Office was asked to assist in the investigation. Upon arriving at the scene, Keasling identified the "distinct and familiar odor of ... a burned body," leading him to believe that a human body had been burned in the fire pit. Tr. Vol. II p. 47. A cadaver dog was brought to the scene and made two positive indications around the fire pit.
- [9] The investigation continued at the bridge where Kirby's dismembered foot was located. Two black bags containing what appeared to be human bones and items similar to what was found at Marantos's firepit were also recovered. The cadaver dog made positive indications over the bags. On April 9, 2020, law enforcement went to investigate the property surrounding an abandoned church after an officer located some dumped items on the church property. A cadaver dog was brought to this location and made two positive indications at the dumpsite and made a positive indication on the collected bones. The charred foot recovered from the area around the bridge was subsequently analyzed and was found to be a DNA match for Kirby.
- [10] On May 21, 2020, the State charged Marantos with murder, Level 2 felony robbery resulting in serious bodily injury, Level 3 felony aggravated battery, Level 6 felony obstruction of justice, Level 6 felony abuse of a corpse, Level 6 felony possession of methamphetamine, Class A misdemeanor intimidation,

Class A misdemeanor resisting law enforcement, and Class B misdemeanor leaving the scene of an accident. Marantos subsequently pled guilty to murder. In exchange for his guilty plea, the State agreed to dismiss the remaining charges. The trial court accepted Marantos's guilty plea and sentenced him to a sixty-five-year term of incarceration.

## Discussion and Decision

[11] Indiana Appellate Rule 7(B) provides that “The 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.” In analyzing such claims, we “concentrate less on comparing the facts of [the case at issue] to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant’s character.” *Paul v. State*, 888 N.E.2d 818, 825 (Ind. Ct. App. 2008) (internal quotation omitted). The defendant bears the burden of persuading us that his sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).

[12] A person convicted of murder “shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years.” Ind. Code § 35-50-2-3(a). The trial court sentenced Marantos to the maximum sixty-five-year sentence. Marantos contends on appeal that

this sentence is inappropriate in light of the nature of his offense and his character.

[13] Marantos argues that he “is not the worst of murder offenders warranting the maximum sentence.” Appellant’s Br. p. 12. We disagree. The facts surrounding Kirby’s murder are particularly gruesome. The factual basis presented at the guilty plea hearing reveals that Marantos brutally beat Kirby to death. He then dismembered and attempted to burn Kirby’s body in his firepit before disposing of Kirby’s remains, including Kirby’s severed foot, at various locations.

[14] The record also reveals Marantos to be of poor character. Marantos acknowledges that he has an extensive criminal history, including at least eight prior felony convictions, five prior misdemeanor convictions, two unsuccessful terminations of probation, and three open cases at the time of sentencing. The Indiana Risk Assessment Tool also found him to be a “very high” risk to reoffend. Appellant’s App. Vol. II p. 48. In addition, after murdering Kirby, Marantos, realizing that his stepson had witnessed his brutal attack of Kirby, threatened to kill his wife and stepson. Furthermore, while Marantos seemingly accepted responsibility for his actions by pleading guilty, he attempted to place a portion of the blame for what happened on the fact that Kirby was drunk at the time of his death and received the significant benefit of having eight additional criminal charges dismissed. Marantos has failed to

convince us that his sixty-five-year sentence is inappropriate.<sup>1</sup> *See Sanchez*, 891 N.E.2d at 176 (“The defendant bears the burden of persuading us that his sentence is inappropriate.”)

[15] The judgment of the trial court is affirmed.

Crone, J., and Tavitas, J., concur.

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<sup>1</sup> To the extent that Marantos argues that the trial court failed to properly weigh his proffered mitigators, *i.e.*, the fact that he pled guilty and that he has obtained his G.E.D. and could find employment, “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), *modified on other grounds on reh’g*, 875 N.E.2d 218 (Ind. 2007).