

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

Daveyaun Groves,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 14, 2022

Court of Appeals Case No.
21A-CR-2742

Appeal from the
St. Joseph Superior Court

The Honorable
Jeffrey L. Sanford, Judge

Trial Court Cause No.
71D03-2007-MR-11

Vaidik, Judge.

Case Summary

- [1] Daveyaun Groves appeals his seventy-five-year sentence for murder and a firearm enhancement, arguing it is inappropriate. We affirm.

Facts and Procedural History

- [2] On July 3, 2020, Jeremiah Parker was a passenger in a car driven by Ronald Spires in South Bend. Spires was looking for someone and pulled up near a small group of people on Marine Street. Groves exited a nearby house and approached the passenger side of the car. Parker greeted Groves, reaching out to shake hands and saying, “What’s up bro?” Tr. Vol. II pp. 125-26. Groves responded, “I ain’t your bro,” *id.* at 126, then shot Parker three times in the chest, killing him. As Spires fled, Groves also shot at him but missed.¹
- [3] The State charged Groves with murder and a firearm enhancement. A jury found Groves guilty as charged. The trial court imposed a sentence of fifty-five years for murder, plus twenty years for the firearm enhancement, for a total sentence of seventy-five years. In doing so, the court noted that Groves has “one prior”—a juvenile adjudication for theft—and then explained:

I do find that the conduct by you, Mr. Groves, to be particularly callous. And so I do think that -- I’m going to impose a presumptive sentence of 55 years, and I think maybe -- I don’t know. I don’t know why they have a gun enhancement other

¹ There was no evidence of motive presented to the jury.

than maybe the legislature thinks that there's too much use of guns and maybe people ought not to carry guns around. And maybe if there hadn't been a gun in this case, there wouldn't have been any -- we wouldn't be talking now. I don't know. But I do think a twenty year enhancement, the maximum for the gun enhancement is in order here. So the sentence will be 75 years.

Tr. Vol. III pp. 65-66.

[4] Groves now appeals.

Discussion and Decision

[5] Groves contends his sentence is inappropriate and asks us to reduce it. Indiana Appellate Rule 7(B) 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).

- [6] The sentencing range for murder is forty-five to sixty-five years, with an advisory sentence of fifty-five years. Ind. Code § 35-50-2-3(a). In addition, if a person knowingly or intentionally uses a firearm during the commission of certain offenses, including murder, the trial court may enhance the sentence by five to twenty years. I.C. § 35-50-2-11. Therefore, Groves was facing a sentence of up to eighty-five years. The trial court imposed the advisory fifty-five-year sentence for murder plus the maximum firearm enhancement of twenty years, for a total sentence of seventy-five years. Groves asks us to reduce the sentence to “no more than fifty five (55) years[.]” Appellant’s Br. p. 11.
- [7] Groves acknowledges the offense was “egregious.”² Appellant’s Br. p. 10. Unprovoked, Groves walked up to Parker, who was seated in a car, and shot him multiple times in the chest at close range as Parker attempted to greet Groves. We agree with the trial court that this murder was “particularly callous.” Groves also shot at Spires, putting his life in danger as well.
- [8] However, Groves contends his sentence is inappropriate in light of his character—citing his “lack of criminal history, his young age, mental status, and family background[.]” *Id.* We disagree. While Groves has no prior adult criminal convictions, the pre-sentence investigation report shows he had many contacts with the juvenile system, including an adjudication for theft and multiple probation violations. And although Groves reported that his

² Groves “maintains he is innocent,” Appellant’s Br. p. 10 n.4, but does not dispute that the evidence is sufficient to support his conviction.

relationship with his father is “shaky,” he also reported having good, supportive family relationships. Appellant’s App. Vol. II pp. 91-92. Further, Groves does not establish a link between how his mental-health issues and family background contributed to his murder of Parker.

[9] Groves has failed to persuade us his sentence is inappropriate.³

[10] Affirmed.

Crone, J., and Altice, J., concur.

³ Groves offers an alternative argument at the end of his brief. He contends the trial court failed to issue a sentencing statement and asks us to “remand this cause to the trial court with instructions to conduct a new sentencing and to enter a sentence statement detailing the reasons for the sentence.” Appellant’s Br. pp. 10-11. But as set forth above, the court did issue a sentencing statement, finding that Groves’s conduct was “particularly callous.” Groves doesn’t acknowledge that finding anywhere in his brief.