

## MEMORANDUM DECISION

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# IN THE Court of Appeals of Indiana

Deccoe Terrez Tate,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*



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February 19, 2025

Court of Appeals Case No.  
24A-CR-2238

Appeal from the St. Joseph Superior Court  
The Honorable Elizabeth C. Hurley, Judge

Trial Court Cause No.  
71D08-2301-F1-1

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**Memorandum Decision by Judge Bailey**  
Judges Vaidik and DeBoer concur.

**Bailey, Judge.**

## Case Summary

- [1] A jury found Deccoe Terrez Tate guilty of two counts of Level 3 felony rape.<sup>1</sup> The trial court imposed an aggregate sentence of twenty-four years. On appeal, Tate argues that his sentence is inappropriate. We affirm.

## Facts and Procedural History

- [2] The facts most favorable to the verdict are as follows. Around midnight on September 12, 2022, K.R. and her boyfriend, Marquete Lauderdale, arranged to visit Tate and his girlfriend, China Pinkney, in their South Bend apartment. K.R. told Lauderdale that she needed to take a shower, and he told her that she could do so at Tate's apartment. K.R. and Lauderdale walked to the apartment and were greeted by Tate and Pinkney. Pinkney told K.R. that she could take a shower. Lauderdale left the apartment to meet someone, and K.R. went into the bathroom and started taking a shower.
- [3] Pinkney "busted through" the bathroom door, "ripped open the shower curtain[,] and asked [K.R.] why [she] was naked in front of her man." Tr. Vol. 2 at 30-31. Pinkney punched K.R. in the face and pulled her out of the bathtub by her hair. Pinkney then dragged K.R. through the apartment, down the back exterior staircase, and into a gated courtyard. Pinkney went back upstairs. K.R.

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<sup>1</sup> Ind. Code § 35-42-4-1(a).

tried to open the gate, which was locked, and then draped an air conditioner cover around her because she “didn’t have any clothes on.” *Id.* at 32.

[4] K.R. heard “a lot of rattling” from the kitchen drawer upstairs and then saw Tate “walking down the stairs” with no clothes on. *Id.* at 33. Pinkney “was yelling at him and asking him why he was down there with that b\*\*\*h, and then she came out with a knife.” *Id.* Pinkney swung the knife at Tate and cut his arm. Brandishing the knife, Pinkney told K.R. to go back upstairs and into the bedroom. Pinkney then ordered K.R. to “suck [Tate’s] d\*\*k.” *Id.* at 35. Pinkney held the knife to K.R.’s throat as K.R. fellated Tate on the bed. K.R. tried to deflect the knife by grabbing it with her hand, and it cut her.

[5] Pinkney asked Tate if K.R. was “doing a good job.” *Id.* Tate said, “No.” *Id.* He then got up, stood behind K.R., and put his penis inside her vagina, which made Pinkney “mad.” *Id.* at 37. Eventually, Pinkney and Tate told K.R. “to go out in the living room.” *Id.* K.R. “threw on [her] shirt and pants” and “ran down the front stairs.” *Id.* at 38. She started “running through yards[,]” and Tate followed her with a knife. *Id.* K.R. saw “a house that looked safe enough for [her] to knock on for help.” *Id.* at 39. The homeowner opened the door, saw the “panicked[,]” disheveled, and barefoot K.R., and called 911. *Id.* at 47. K.R. told the responding officers what had happened. Police later apprehended Tate and Pinkney in their apartment.

[6] K.R. underwent a sexual assault exam at a hospital. The attending nurse noticed that “[s]he had some cuts, some abrasions, some kind of early staging of

bruising and redness.” *Id.* at 63. K.R. “was very emotional, very tearful, very upset about everything.” *Id.*

[7] The State charged Tate with two counts of Level 1 felony rape<sup>2</sup> and two counts of Level 3 felony rape. The Level 1 felony counts alleged that Tate knowingly had sexual intercourse and knowingly performed or submitted to other sexual conduct with K.R., when K.R. was compelled by force or the imminent threat of force, by using or threatening the use of deadly force. The Level 3 felony counts alleged that Tate knowingly had sexual intercourse and knowingly performed or submitted to other sexual conduct with K.R., when K.R. was compelled by force or the imminent threat of force. After a two-day trial in August 2024, the jury found Tate not guilty of the Level 1 felony charges and guilty of the Level 3 felony charges.

[8] At the September 2024 sentencing hearing, the trial court found as a mitigating factor Tate’s “mental health issues that seem to stem from childhood trauma.” *Id.* at 160.<sup>3</sup> The court found as an aggravating factor Tate’s criminal history, which consisted of six misdemeanor convictions and one felony conviction. The court also found as an aggravator that “the harm done to the victim in this

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<sup>2</sup> I.C. § 35-42-4-1(b).

<sup>3</sup> When interviewed for the presentence investigation report, Tate stated that he was placed in foster care when he was twelve years old “due to his mother’s illegal substance use” and was both mentally and sexually abused by staff at a group home. Appellant’s App. Vol. 2 at 54.

case is greater than what is necessary to prove the Level 3 felony rape.” *Id.* at 161. The court admonished Tate,

[Y]ou allowed all of this to happen while that victim was being held at knifepoint. And so while the other person may have been holding the knife, you were the one engaging in the sex while that victim was there at knifepoint with nowhere to go except to submit to what you were doing. You allowed [K.R.] to be beaten by the co[-]defendant. She had to run out of the house naked at one point. She had to run to a stranger’s house and you chased her. I mean, I watched her testify twice.<sup>[4]</sup> It was very apparent the damage that you and your co[-]defendant did to her that night. And we’re here a year and a half later and it was very clear how fresh that damage still was when she testified.

This was a horrific set of circumstances. And so I do find that the aggravating factors outweigh the mitigating factors. I find that the aggravating factors support consecutive sentencing in this case. And I do find that a sentence ... greater than the advisory on both counts is appropriate.<sup>[5]</sup>

*Id.* at 162. The court sentenced Tate to twelve years on each count, with ten years executed and two years suspended to probation, to run consecutive, for an aggregate sentence of twenty years executed and four years suspended. Tate now appeals his sentence.

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<sup>4</sup> The trial court judge also presided at Pinkney’s trial for Level 1 felony aiding, inducing, or causing rape while armed with a deadly weapon. Pinkney, who was found guilty and admitted to being a habitual offender, received a thirty-eight-year sentence, with ten years suspended.

<sup>5</sup> The sentencing range for a Level 3 felony is three years to sixteen years, with an advisory sentence of nine years. I.C. § 35-50-2-5(b).

## Discussion and Decision

[9] Tate asks us to review and revise his sentence pursuant to Indiana Appellate Rule 7(B), which states, “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.” “Whether a sentence is inappropriate ultimately depends upon ‘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.’” *Smoots v. State*, 172 N.E.3d 1279, 1289 (Ind. Ct. App. 2021) (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008)). “[T]he principal role of appellate review is to ‘leaven the outliers,’ not achieve the perceived ‘correct’ result in each case.” *Kunberger v. State*, 46 N.E.3d 966, 973 (Ind. Ct. App. 2015) (quoting *Cardwell*, 895 N.E.2d at 1225). “We therefore ‘focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count.’” *Id.* (quoting *Cardwell*, 895 N.E.2d at 1225). We reserve our 7(B) authority for “exceptional cases[.]” *Norton v. State*, 235 N.E.3d 1285, 1290 (Ind. Ct. App. 2024) (quoting *Mullins v. State*, 148 N.E.3d 986, 987 (Ind. 2020)). The defendant bears the burden of persuading us that his sentence is inappropriate. *Kunberger*, 46 N.E.3d at 972.

[10] Tate has failed to meet his burden here. He makes no argument whatsoever regarding the nature of his offenses, which the trial court aptly described as “horrific” and involved nonconsensual oral and vaginal intercourse with a helpless victim held at knifepoint. Tr. Vol. 2 at 162. And as for his character,

Tate argues only that we should “give [more] mitigating weight” to his childhood trauma and mental health issues than the trial court did. Appellant’s Br. at 9.<sup>6</sup> It is well settled, however, that such a claim is not subject to appellate review. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind.), *clarified on reh’g on other grounds*, 875 N.E.2d 218 (Ind. 2007). We therefore affirm Tate’s sentence.<sup>7</sup>

[11] Affirmed.

Vaidik, J., and DeBoer, J., concur.

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<sup>6</sup> Tate asserts, “[L]ooking at the whole picture, the image of Mr. Tate that emerges is of a damaged young man who, after a boyhood of abuse, developed mental illnesses that are known to produce manic episodes, cognitive dysfunction, abnormal perception, and poor judgment.” Appellant’s Br. at 10. But Tate presented no evidence at the sentencing hearing that he actually suffers from any of these conditions.

<sup>7</sup> Because Tate has failed to carry his burden to persuade us that his aggregate sentence is inappropriate, we need not address his related argument that it was inappropriate for the trial court to impose consecutive sentences, which it was legally authorized to do. *See Lewis v. State*, 31 N.E.3d 539, 543 (Ind. Ct. App. 2015) (noting that “a single aggravator may be used both to enhance a sentence and impose consecutive sentences”); I.C. § 35-50-1-2 (placing no restrictions on “the total of the consecutive terms of imprisonment” for crimes of violence, such as rape, “arising out of an episode of criminal conduct[,]” i.e., “offenses or a connected series of offenses that are closely related in time, place, and circumstance”); *see also Cardwell*, 895 N.E.2d at 1225 (noting, with respect to consecutive sentences, that “additional criminal activity directed to the same victim should not be free of consequences”).

ATTORNEY FOR APPELLANT

A. Robert Masters  
St. Joseph County Deputy Public Defender  
Nemeth, Feeney, Masters & Campiti, P.C.  
South Bend, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Indiana Attorney General

Michelle Hawk Kazmierczak  
Deputy Attorney General  
Indianapolis, Indiana