MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Autumn Purtlebaugh,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 21, 2022

Court of Appeals Case No.
22A-CR-792

Appeal from the
Bartholomew Superior Court

The Honorable
James D. Worton, Judge

Trial Court Cause No.
03D01-2102-F4-793

Pyle, Judge.

Statement of the Case

[1] Autumn Purtlebaugh ("Purtlebaugh") pleaded guilty to battery resulting in bodily injury to a pregnant woman as a Level 5 felony,[1] and the trial court imposed an enhanced sentence of four years, with two and one-half years suspended to probation. Purtlebaugh argues that her enhanced sentence was an abuse of discretion because one of the aggravating factors the trial court recited—that Purtlebaugh's actions caused the victim to miscarry her child—was not supported by the record. Concluding that the record supported another aggravating factor, we find the trial court did not abuse its discretion and affirm Purtlebaugh's sentence.

[2] We affirm.

Issue

Whether the trial court abused its discretion when sentencing Purtlebaugh.

Facts

[3] Chelsey Stack ("Stack") was dating Brett Motley ("Motley"), who had previously dated Purtlebaugh. Purtlebaugh and Motley shared a child, and the relationship between Stack and Purtlebaugh was strained. In early February

[1] *See* IND. CODE § 35-42-2-1(g)(3).

2021, Stack was in the seventh week of her pregnancy. While Stack knew she was pregnant, she did not realize she was carrying twins.

[4] On February 5, 2021, Stack was staying at Motley's home, and three children were in the home. Purtlebaugh suddenly burst into the home, grabbed Stack by her hair, and repeatedly kicked her stomach. Stack vomited and her stomach was cramping, so she went to the hospital. An ultrasound showed that one of the twins had died. The physician who cared for Stack did not know when the baby had died or whether Purtlebaugh's attack on Stack had caused the baby to die, and the physician doubted that an obstetrician could determine whether Purtlebaugh's actions caused the baby to die.

[5] About ten days later, the State charged Purtlebaugh with: (1) Level 4 felony burglary; (2) Level 5 felony battery resulting in bodily injury to a pregnant woman; (3) Level 6 felony domestic battery; and (4) Class B misdemeanor battery by bodily waste. In February 2022, Purtlebaugh offered to plead guilty to battery resulting in bodily injury to a pregnant woman as a Level 5 felony in exchange for dismissal of the remaining charges. The trial court took the plea under advisement.

[6] At a March 23, 2022 hearing, the trial court accepted Purtlebaugh's guilty plea and proceeded to the sentencing hearing. It found these aggravators: (1) Purtlebaugh's history of criminal or delinquent behavior, including a previous battery; (2) Purtlebaugh's probation had previously been revoked; (3) Purtlebaugh's actions "resulted in [Stack] having a miscarriage[;]"and; (4) the

harm, injury, or loss suffered by Stack was greater than the elements necessary to prove the offense. (App. Vol. 2 at 40–41; Tr. at Vol. II at 26). The trial court also found that Purtlebaugh "just d[idn't] seem very remorseful . . . ." (Tr. at Vol. II at 26). It did not find any mitigators, and it sentenced Purtlebaugh to four years, one year more than the advisory sentence for Level 5 felonies,[2] with two and one-half years suspended to probation. Purtlebaugh now appeals.

Decision

[7] Purtlebaugh argues the trial court abused its discretion by citing as an aggravating factor that Purtlebaugh's actions caused Stack to miscarry her child. Sentencing decisions rest within a trial court's discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g,* 875 N.E.2d 218 (Ind. 2007). We will find an abuse of discretion where the sentencing decision is clearly against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* A trial court may abuse its discretion in many ways, including: (1) failing to enter a sentencing statement; (2) entering a sentencing statement that includes aggravating and mitigating factors unsupported by the record; (3) entering a sentencing statement that omits reasons that are clearly supported by the

[2] *See* I.C. § 35-50-2-6(b).

record; or (4) entering a sentencing statement that includes reasons improper as a matter of law. *Id.* at 490–91.

[8] We need not address Purtlebaugh's argument because "a single aggravating circumstance is adequate to justify a sentence enhancement." *Hawkins v. State*, 748 N.E.2d 362, 363 (Ind. 2001). Further, where a sentencing court applies an improper aggravating circumstance but also applies a proper aggravating circumstance, we may still uphold an enhanced sentence. *Id*. Here, Purtlebaugh's criminal history was a valid aggravator that justified her enhanced sentence. *See* I.C. § 35-38-1-7.1(a)(2); *Hawkins*, 748 N.E.2d at 363. This history includes juvenile delinquency adjudications in 2019 for possession of marijuana, possession of paraphernalia, operating a motor vehicle without ever receiving a license, battery, and battery resulting in bodily injury, which all would have been misdemeanors if committed by an adult. In 2020, Purtlebaugh was convicted as an adult for false informing and was placed on probation. In 2021, Purtlebaugh was arrested for invasion of privacy after she violated a no-contact order. In 2022, her probation was terminated. Considering Purtlebaugh's criminal history, the trial court did not abuse its discretion in ordering an enhanced sentence.

[9] Affirmed.

Bradford, C.J., and May, J., concur.