

MEMORANDUM DECISION

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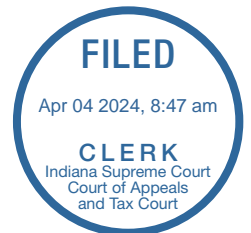


IN THE
Court of Appeals of Indiana

Robert Quinn,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.



April 4, 2024

Court of Appeals Case No.
23A-CR-1580

Appeal from the
St. Joseph Superior Court

The Honorable
John M. Marnocha, Judge

Trial Court Cause No.
71D02-2212-F5-328

Memorandum Decision by Senior Judge Baker
Judges Mathias and Bradford concur.

Baker, Senior Judge.

Statement of the Case

- [1] Robert Quinn sent sexually suggestive messages to his thirteen-year-old stepdaughter. A jury determined Quinn was guilty of Level 5 felony child solicitation, and the trial court sentenced him to six years. Quinn appeals, claiming: (1) the State failed to prove its case beyond a reasonable doubt; and (2) his sentence is inappropriate. Concluding the evidence is sufficient and Quinn has not shown grounds to revise his sentence, we affirm.

Facts and Procedural History

- [2] In June 2020, thirteen-year-old S.M. lived with her stepfather, Quinn, and her mother, Trisha Quinn.¹ S.M. had a Facebook account, and she used Facebook’s Messenger application to communicate with Quinn. In her contacts, S.M. labeled Quinn as “step dads ugh.” Tr. Vol. III, p. 5.
- [3] S.M. had her own cell phone, an LG brand. When Trisha punished S.M. by limiting S.M.’s phone access, Quinn sometimes loaned S.M. his old phone, an iPhone 6, so that he could keep communicating with her. S.M. later said

¹ We refer to S.M.’s mother as “Trisha” to avoid confusion.

Quinn sent messages to her requesting sex “[a]ll the time[.]” Tr. Vol. II, p. 137. She also said he would discuss sexual topics with her in person.

[4] On June 18, 2020, Quinn took away S.M.’s Wi-Fi access. S.M. messaged Quinn to ask him to restore it, but he refused, stating “I ain’t get what was mines [sic.]” Tr. Vol. III, p. 58. When S.M. repeatedly asked Quinn to explain what he meant, he changed the subject to whether S.M. was still communicating with her boyfriend. She denied his accusation. Next, Quinn accused S.M. of not wearing any underwear on a recent errand, and she claimed she could not find any. A few minutes later, Quinn messaged S.M., “2 days with out [sic] underwear & I ain’t seen or felt nun [sic],” “[o]r [f**k] nun[.]” *Id.* at 63. S.M. responded, “[t]hat’s yo [sic] fault you was [sic] rude to me[.]” *Id.* Quinn then stated he would not grant her Wi-Fi access.

[5] After several more exchanges of messages, S.M. said, “[n]o see look how you treat [sic] but then wany [sic] sum[.]” *Id.* at 65. Quinn accused S.M. of “not mak[ing] it right” and clarified, “[m]aking it right is getting this dick[.]” *Id.* S.M. responded, “[o]k,” and Quinn repeated, “[y]u [sic] ain’t got this dick so yu [sic] ain’t make nun [sic] right[.]” *Id.*

[6] Later that day, Quinn ordered S.M. to “[b]reak up with” her boyfriend. *Id.* at 71. She complied with his request because she feared him. Next, S.M. took a screenshot of her break-up message to her boyfriend and sent it to Quinn. Quinn claimed she faked the break-up, saying “[y]u [sic] keep saying yu [sic] going to do sum [sic] & don’t[.]” *Id.* at 75. He then explained, “[l]ike now

walking around [with] no underwear on could've gave [sic] me sum [sic.]" *Id.*
Next, Quinn suggested, "[s]hid [sic] bend over n [sic] pull them to the side Yu
[sic] know a quickie[.]" *Id.*

[7] On June 19, Quinn messaged S.M., "I see yu [sic] still wanna [sic] lie & play
games with the [p***y.]" *Id.* at 81. He later said, "Yu [sic] did yu [sic] closed
yo [sic] legs & had them tight so I wouldn't finger yu [sic.]" *Id.* at 82. A few
minutes later, Quinn messaged, "& [sic] I tried to [f**k] this morning yu [sic]
just rolled over n [sic] didn't let me[.]" *Id.* at 83. S.M. claimed not to
remember. Quinn commented that she had not said no to him, she "just rolled
over[.]" *Id.* S.M. responded, "[o]h." *Id.*

[8] Later, when S.M. said she was helping her younger sister shower, Quinn
responded, "[o]h ok when yu [sic] done lemme [sic] sum [sic.]" *Id.* at 84. He
later added, "[n]ah [sic] I don't want it I was jk [sic.]" *Id.* S.M. answered,
"[o]k," *id.*, and he then said, "[b]ut I do wanna [sic] [f**k] today[.]" *Id.* at 85.
S.M. sent an emoji of a person shaking her head. Quinn accused her of being
interested in a person who had done nothing for her, but "yu [sic] just shake yo
[sic] head when the [n***a] who do everything wanna [sic] [f**k.]" *Id.*

[9] On June 22, in a continuation of their conversation by messaging, Quinn
accused S.M. of showing him her genitals. When she denied doing that, Quinn
said, "I have a pik [sic] of it[.]" *Id.* at 130. S.M. responded, "[u]m ok[.]" *Id.* at
131. In the early morning hours of June 23, Quinn accused S.M. of telling him
to "pls [sic] get out & stop trying" when he was in her room. *Id.* at 137. When

she denied saying that, he said, “[g]imme [sic] sum [sic] or I swear I’ll nvr [sic] be nice[.]” *Id.* at 138.

[10] Around three hours later, Quinn messaged S.M., “[o]r let me eat that [p***y] come now yu [sic] can do sum [sic.]” *Id.* at 139. When S.M. said she was not alone or was sleeping, Quinn responded, “[y]u [sic] can feel sad kill yo self [sic] what ever [sic] I don’t [f*****g] care no more [sic] yu [sic] have no reason to make these excuses[.]” *Id.* at 141. A few minutes later, Quinn said, “[k]ill yo self [sic] I mean it yeah I hate yu [sic] & Im [sic] making gn [sic] everyone else hate yu [sic] with me bye[.]” *Id.* at 142. Next, Quinn said, “[y]u [sic] know yu [sic] thought I was doing [s**t] to hurt yu [sic] I am but imma [sic] make sure I hurt yu [sic] every [f*****g] day[.]” *Id.* at 144. Less than a minute later, Quinn messaged his stepdaughter, “[f**k] yu [sic] i [sic] honesty [sic] [f*****g] hate yu [sic.]” *Id.*

[11] Later on June 23, Trisha noticed S.M. was “acting up” and did not want her to go to work. Tr. Vol. II, p. 37. When Trisha arrived at work, S.M. messaged her to say Quinn had been asking her to engage in sex acts with him. S.M. also sent Trisha a screenshot of one of his sexually explicit messages. Trisha recognized Quinn’s Facebook profile in the screenshot. She contacted the police, and Ryan Gardner, who is S.M.’s aunt, retrieved S.M. from Trisha and Quinn’s home.

[12] That same day, Trisha took S.M. to the CASIE Center in South Bend, where trained staff forensically interview children who may have been subjected to

abuse or neglect. S.M. made disclosures during her interview. A detective with the South Bend Police Department observed the interview and obtained search warrants for S.M.'s LG phone and Quinn's iPhone 6. He also obtained S.M. and Quinn's Facebook data. Facebook produced hundreds of pages of records, but the detective noted more than ten pages' worth of messages had been deleted from Quinn's account.

[13] Meanwhile, several days after June 23, Gardner received a Facebook message from Quinn's account. She recognized Quinn as the author of the message "by the context." *Id.* at 58.

[14] The State charged Quinn with Level 5 felony child solicitation. The jury determined Quinn was guilty as charged. The trial court sentenced Quinn to six years, and this appeal followed.

Discussion and Decision

I. Sufficiency of the Evidence

[15] Quinn argues the State failed to provide sufficient evidence to sustain his conviction. When reviewing a sufficiency of the evidence claim, "we will neither reweigh the evidence nor judge the credibility of witnesses." *Kuypers v. State*, 878 N.E.2d 896, 898 (Ind. Ct. App. 2008), *trans. denied*. Instead, we look to the evidence admitted at trial and reasonable inferences therefrom that support the verdict. *Arndt v. State*, 642 N.E.2d 224, 229 (Ind. 1994). "The conviction will be affirmed if there is evidence of probative value from which a

reasonable trier of fact could infer that appellant was guilty beyond a reasonable doubt.” *Id.*

[16] To obtain a conviction of Level 5 felony child solicitation as charged, the State was required to prove beyond a reasonable doubt that: (1) Quinn (2) being at least eighteen years of age (3) knowingly or intentionally (4) solicited S.M. (5) a child under the age of fourteen (6) to engage in other sexual conduct. *Ind. Code § 35-42-4-6(b)(2014); Appellant’s App. Vol. II, p. 9.*

[17] Quinn claims the evidence fails to show he sent the messages to S.M. We disagree. The records for Quinn’s Facebook account show that he created the account in 2019, using the name “Robert Quinn.” *Tr. Vol. III, p. 7.* He registered an email address with the account, and the address included the name “robbie.” *Id.* Quinn also verified a phone number for the account.

[18] Quinn used Facebook’s Messenger app to send S.M. messages requesting sex “[a]ll the time[.]” *Tr. Vol. II, p. 137.* In addition, he would discuss sexual topics with her in person. Further, the sexually solicitous messages at issue were part of a larger, days-long messaging conversation between Quinn and S.M., which included other topics such as whether S.M. had really broken up with her boyfriend and what Quinn planned to tell Trisha about S.M.’s behavior.

[19] Quinn argues S.M. could have generated the conversation herself, using Quinn’s old iPhone 6. There is no dispute that Quinn occasionally loaned the phone to S.M. But the detective who reviewed Quinn and S.M.’s Facebook

records testified that, based on his experience, the messaging conversation was genuine rather than fabricated. And someone deleted Facebook's Messenger app from the iPhone 6 on June 10, 2020, well before the conversation at issue. The finder of fact could have reasonably inferred that neither Quinn nor S.M. used the iPhone 6 for their conversation on Facebook Messenger.

[20] Also, someone had deleted messages from Quinn's Facebook account for the days at issue. It is unlikely that someone who had accessed Quinn's account to send unauthorized messages under his name would take the time to delete the messages later. Finally, in the days after S.M. and Trisha went to the authorities, Gardner received a message from Quinn on Facebook. She recognized him as the sender from the context of the message.

[21] In summary, the State presented sufficient evidence from which a reasonable jury could have determined beyond a reasonable doubt that Quinn sent the sexual solicitations to S.M. Quinn's arguments amount to a request to reweigh the evidence, and our standard of review requires us to decline that request.

II. Appropriateness of Sentence

[22] Quinn argues his sentence is too high and asks the Court to reduce it by an unspecified amount. Article 7, section 6 of the Indiana Constitution authorizes the Court to review and revise sentences. Indiana Appellate Rule 7(B) implements this authority, stating the Court may revise a sentence "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.”²

[23] The Indiana Supreme Court has emphasized that revision of sentences under Appellate Rule 7(B) is reserved “for exceptional cases.” *Livingston v. State*, 113 N.E.3d 611, 613 (Ind. 2018). Further, “review under Appellate Rule 7(B) is very deferential to the trial court.” *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012). “[O]ur principal role is to ‘leaven the outliers’ rather than necessarily achieve what is perceived as the ‘correct’ result.” *Id.* (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008)). “The burden is on the defendant to persuade the reviewing court that the sentence is inappropriate.” *Robinson v. State*, 91 N.E.3d 574, 577 (Ind. 2018).

[24] At the time Quinn committed child solicitation, the maximum sentence for a Level 5 felony was six years, the minimum sentence was one year, and the advisory sentence was three years. Ind. Code § 35-50-2-6 (2014). The trial court sentenced Quinn to six years, all executed. Quinn correctly notes that, in general, maximum sentences are reserved for the “worst offenders.” Appellant’s Br., p. 10. But, as we discuss below, the circumstances of this case support the sentence.

² Quinn also argues that the trial court abused its discretion during sentencing. Challenges to a trial court’s sentencing discretion “are to be analyzed separately” from claims under Appellate Rule 7(B). *King v. State*, 894 N.E.2d 265, 267 (Ind. Ct. App. 2008). Quinn’s arguments and citations to authority focus on this Court’s power to review and revise his sentence under Rule 7(B). We decline to consider whether the trial court abused its sentencing discretion.

[25] “The nature of the offenses is found in the details and circumstances of the commission of the offenses and the defendant’s participation.” *Croy v. State*, 953 N.E.2d 660, 664 (Ind. Ct. App. 2011). Quinn presents no argument about the nature of the offense, but his misconduct was extensive. Over a span of six days, Quinn repeatedly asked or directed S.M. to engage in a variety of sex acts with him. He had ample time to reconsider his misconduct, but he chose to continue. And Quinn’s messages to S.M. from June 18 to June 23, 2020, were not the beginning of his misconduct. To the contrary, S.M. told the jury he had previously made sexual requests of her several times, both in person and on Facebook Messenger.

[26] In addition, Quinn abused his position of trust with his thirteen-year-old stepdaughter. Quinn conceded that he was S.M.’s caretaker and disciplinarian when Trisha was at work. In his messaging conversations with S.M., he mixed statements about being responsible for her and doing things for her with requests for sexual favors. And he attempted to use parenting punishment techniques, such as withholding access to Wi-Fi, to induce her to engage in sexual behavior.

[27] Further, after Quinn tired of S.M.’s attempts to deflect his unrelenting requests for sexual activities, Quinn’s messages became hateful and threatening. He repeatedly urged her to commit suicide and stated he would turn other family members against her. Quinn further promised to “make sure I hurt yu [sic] every [f*****g] day[.]” Tr. Vol. III, p. 144.

- [28] Quinn’s oppressive misconduct has had long-term negative effects on S.M. She explained at sentencing that she is “scared, [has] anxiety, [and is] paranoid around other men.” Tr. Vol. II, p. 203. And she could never “trust another father figure.” *Id.* at 203-04.
- [29] “The character of the offender is found in what we learn of the offender’s life and conduct.” *Croy*, 953 N.E.2d at 664. Quinn was thirty-three years old at sentencing. He has one prior felony conviction, for Level 6 felony strangulation. Quinn also has two prior misdemeanor convictions: Class A battery resulting in bodily injury and Class A invasion of privacy. In addition, after the current case was filed, the State charged Quinn with Level 5 felony possession of a handgun by a felon, and Quinn was found guilty. And in yet another case, Quinn was found guilty of Level 5 felony strangulation. Quinn’s criminal conduct is ongoing and escalating.
- [30] Quinn has been placed on probation once, and in that case he was twice found to have violated the terms and conditions of probation. He has not benefitted from alternatives to incarceration.
- [31] Quinn points to his steady employment history and his completion of a GED course as positive elements of his character. We cannot conclude those factors outweigh his extensive criminal history or the abusive nature of his offense. Quinn has failed to show his maximum sentence is an outlier needing revision.

Conclusion

- [32] For the reasons stated above, we affirm the judgment of the trial court.

[33] Affirmed.

Mathias, J., and Bradford, J., concur.

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