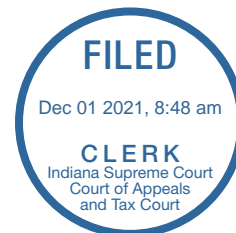


MEMORANDUM DECISION

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

Raeaunna A.S. White,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 1, 2021
Court of Appeals Case No.
21A-CR-912
Appeal from the
St. Joseph Superior Court
The Honorable
Jane Woodward Miller, Sr. Judge
Trial Court Cause No.
71D01-2006-F5-141

Vaidik, Judge.

Case Summary

- [1] Raeaunna A.S. White appeals the nineteen-year sentence she received for killing two people and seriously injuring two others while driving drunk. We affirm.

Facts and Procedural History

- [2] Early on the morning of June 28, 2020, White, after drinking at a party, was driving at least seventy-five miles per hour in a forty-mile-per-hour zone when she ran into the back of a car that was fourth in a line of vehicles stopped for a red light, causing a chain-reaction crash. Four people were in the car White hit: Tajuanna Norris, Tony Griffin, Anthony Ballinger, and Norris's five-year-old grandson, A.B. Norris and Griffin were killed, and Ballinger and A.B. were seriously injured. At the time, White's license was suspended, and she had pending misdemeanor charges in two cases. *See* Cause No. 71D05-1908-CM-2981 (driving while suspended and reckless driving causing bodily injury, based on an incident in July 2019) and Cause No. 71D03-2006-CM-1586 (conversion, based on an incident in May 2020). After the crash, White gave a fake name to law enforcement. She also refused to consent to a chemical test, so officers obtained a warrant for a blood draw.
- [3] The blood-test results are not in the record, but the State filed four criminal charges against White based on operating a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per

100 milliliters of blood: two counts of causing death, a Level 4 felony, and two counts of causing serious bodily injury, a Level 5 felony. The State also charged White with two counts of Level 5 felony reckless homicide, two counts of Class A misdemeanor reckless driving causing bodily injury, Class A misdemeanor driving while suspended, and Class B misdemeanor false informing.

[4] In February 2021, White and the State entered into a plea agreement under which White pled guilty to both counts of Level 4 felony operating causing death and both counts of Level 5 felony operating causing serious bodily injury and the State dismissed the other six counts and Cause No. 71D03-2006-CM-1586.¹ Sentencing was left to the trial court's discretion.

[5] In sentencing White, the trial court found several aggravating factors: one victim was a young child who had to have several operations and underwent the “unimaginable trauma of watching his grandmother die and being there when his grandmother died”; White’s criminal history, including a felony firearm conviction in Michigan; White’s other contacts with police, including that she was facing charges of driving while suspended and reckless driving causing bodily injury at the time of this crash; and White’s license was suspended at the time of this crash. Tr. pp. 61-62. The court also found two mitigating factors: White accepted responsibility by pleading guilty and the

¹ Cause No. 71D05-1908-CM-2981 remained pending. After White was sentenced in this case, she pled guilty to Class A misdemeanor reckless driving causing bodily injury. She was sentenced to 270 days in jail, to be served after her sentence in this case.

hardship her incarceration will cause to her family, including her two young children. The court sentenced White to the Department of Correction for six years for each count of operating causing death, four years for the count of operating causing serious bodily injury relating to A.B., and three years for the count of operating causing serious bodily injury relating to Ballinger, all consecutive, for a total sentence of nineteen years.

[6] White now appeals her sentence.

Discussion and Decision

I. Mitigating Factors

[7] White first argues the trial court should have found additional mitigating factors: her “educational background and work history,” her difficult childhood, and her “slight criminal record.” Appellant’s Br. pp. 14-17. The finding of aggravators and mitigators rests within the sound discretion of the trial court, and we review such decisions only for an abuse of that discretion. *Wert v. State*, 121 N.E.3d 1079, 1084 (Ind. Ct. App. 2019), *trans. denied*. One way a trial court abuses its discretion is by not recognizing mitigators that are clearly supported by the record and advanced for consideration. *Id.*

[8] Regarding her educational background and work history, White notes she graduated from high school, took some college classes, and had “steady employment” as a certified nursing assistant from 2014 to 2020. Appellant’s Br. pp. 14-15. While White has done better than many defendants who come

before us, her history is not so remarkable that it is a clear mitigating factor, and she cites no authority suggesting otherwise. To the contrary, we have held that a history of employment is not necessarily a mitigator. *See, e.g., McKinney v. State*, 873 N.E.2d 630, 646 (Ind. Ct. App. 2007), *trans. denied*. We cannot say the trial court abused its discretion in this respect.

[9] As for her childhood, White reported she was sexually abused by a cousin when she was in the fourth grade, “both her mother and father had cocaine and alcohol abuse problems,” and she “left the family home for the first time at the age of seventeen to be on her own.” Appellant’s Br. p. 15. White cites nothing in the record on these issues other than her own statements. Moreover, she described family life during her childhood as “fair,” said she was “never mentally or physically abused,” and reported “she receives a great deal of support from her family[.]” Appellant’s App. Vol. II p. 88. And White has made no effort to demonstrate a nexus between her upbringing and her criminal behavior in this case. On this record, we see no abuse of discretion as to this alleged mitigator.

[10] White also argues her criminal history is “slight” and that this is a mitigating factor. She did not advance this purported mitigator for consideration in the trial court, so her argument fails from the outset. *See Wert*, 121 N.E.3d at 1084. In any event, White’s criminal history consists of a felony firearm conviction in 2011 and a misdemeanor fraud conviction in 2010, both in Michigan. Citing the age of these convictions, White asserts that “[a] lack of a criminal history is a significant mitigating factor[.]” Appellant’s Br. p. 16 (citing *McElroy v. State*, 865

N.E.2d 584, 592 (Ind. 2007)). But a remote criminal history is not a “lack of a criminal history,” and *White* cites no case in which we have said that a criminal history that includes a felony conviction should be treated as a mitigating factor. The trial court did not abuse its discretion in this regard.

II. Appellate Rule 7(B)

[11] *White* also contends that even if we don’t reverse for an abuse of discretion, her sentence is inappropriate and should be reduced under Indiana Appellate Rule 7(B), which 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.” “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 have the burden of persuading us their sentences are inappropriate. *Schaaf v. State*, 54 N.E.3d 1041, 1044-45 (Ind. Ct. App. 2016). Our task under Rule 7(B) is to “leaven the outliers,” not to “achieve a perceived ‘correct’ result in each case.” *Cardwell*, 895 N.E.2d at 1225.

[12] We begin by noting *White* could have received a much longer sentence. She pled guilty to two Level 4 felonies and two Level 5 felonies. The sentencing

range for a Level 4 felony is two to twelve years, with an advisory sentence of six years. Ind. Code § 35-50-2-5.5. The sentencing range for a Level 5 felony is one to six years, with an advisory sentence of three years. I.C. § 35-50-2-6(b). And because White’s four offenses harmed four different victims, consecutive sentences are appropriate. *See Sanchez v. State*, 938 N.E.2d 720, 723 (Ind. 2010). Therefore, White was facing up to thirty-six years in prison. Instead, she received the advisory sentence for three of her convictions and one year over the advisory for the fourth (the Level 5 felony count relating to five-year-old A.B.), for a total of nineteen years—just over half of what she could have received.

[13] In arguing that this sentence is inappropriate, White says nothing about the nature of her offenses. There is no doubt her conduct went beyond what is statutorily required for her convictions. She did not just cause deaths and serious bodily injuries (including to a five-year-old child) while operating above the legal limit. She did so while driving at least seventy-five miles per hour in a forty-mile-per-hour zone. And she did so while her license was suspended. After the crash, White gave a fake name and refused to consent to a chemical test. Nothing about White’s offenses renders her sentence inappropriate.

[14] White focuses her entire argument on her character. She notes that her prior convictions were ten years old at the time of sentencing, she successfully completed probation in the felony case, she graduated from high school and took some college courses, she worked for several years as a certified nursing assistant, and she expressed remorse for her conduct and accepted responsibility

by pleading guilty. But the good does not outweigh the bad here. In addition to her prior felony and misdemeanor convictions in Michigan, White had two pending criminal cases at the time of the crash, including one for driving while suspended and reckless driving causing bodily injury. And, again, she lied about her identity after the crash. There is also evidence she lied about her history of drug use while being interviewed for the pre-sentence investigation report. *See* Appellant's App. Vol. II p. 90. White has not persuaded us her sentence is inappropriate.

[15] Affirmed.

Najam, J., and Weissmann, J., concur.