MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Jashawn Jones,

Appellant-Defendant

v.

State of Indiana,

Appellee-Plaintiff

March 11, 2024

Court of Appeals Case No.
23A-CR-431

Appeal from the Marion Superior Court

The Honorable Jeffrey Marchal, Judge

Trial Court Cause No.
49D31-2106-MR-19246

Memorandum Decision by Judge Kenworthy
Chief Judge Altice and Judge Weissmann concur.

Kenworthy, Judge.

Case Summary

[1] Jashawn Jones appeals his ninety-five-year aggregate sentence, raising one issue for our review: Is his sentence inappropriate in light of the nature of his offense and his character? Concluding neither the nature of Jones' offense nor his character support revising his sentence, we affirm.

Facts and Procedural History

[2] Jones and Bryonna Brown dated in 2018. After their relationship ended, their daughter, M.B., was born. Initially, Jones and Brown had an informal shared parenting arrangement. Jones visited M.B. about once per week.

[3] Toward the end of 2020, Jones began sending threatening text messages to Brown and her partner at the time, Stephen Banks. Jones threatened to harm Brown and Banks if they did not allow him to see M.B. For example, Jones sent Banks a text message stating he "was going to wet both [Brown and Banks] up." *Tr. Vol. 8* at 192. Brown thought Jones "was going to shoot and kill [her and Banks]." *Id.* at 194. Jones also sent Banks a text stating, "I'm legit going to kill you." *Ex. Vol. 2* at 184. And Jones sent a photo with a screenshot of guns and Brown's home address to a friend. Because of Jones' behavior, Brown obtained a no-contact order against Jones.

[4] On April 7, 2021, Brown and Banks were at Brown's house with M.B. and Brown's other daughter. After the children went to bed, Brown and Banks

began to watch television in the living room. Banks sat on a loveseat in front of a window next to a sliding glass door at the back of the house. Brown laid down on a nearby couch.

[5] Then, Brown heard gunshots and saw Banks fall to the ground. Brown felt a "burning sensation" near her stomach and elbow. *Tr. Vol. 8* at 205. She too fell to the floor. Brown heard around six or seven more gunshots. After the firing stopped, Brown grabbed her phone, ran upstairs to check on her daughters, and called 9-1-1. Eventually, Brown went back downstairs to check on Banks.

[6] When police arrived at Brown's home, they found the backyard fence ajar, the sliding glass door shattered, and several bullet holes in the window near where Banks had been sitting. Police could not revive Banks, who died from gunshot wounds to his head and torso.

[7] The State charged Jones with several offenses related to the April 7 events. Following a jury trial, Jones was convicted of murder, Level 1 felony attempted murder, and Class A misdemeanor carrying a handgun without a license. During his sentencing hearing, Jones explained:

> I'm a great individual. Anybody who would be able to get to know me would consider me a great individual. Victim's family, members of the victims [sic] have considered me a great individual. Now, when it's time to make victim impact statements for me to get the maximum is when people want to change their minds. I don't think it's fair. Don't change the way you view a person just because of a mistake that was made. If you liked me or loved me then, even though I made a mistake

> that's very drastic or somebody's life, you should still feel the same way. That's all.

Tr. Vol. 11 at 134–35. The trial court sentenced Jones to an aggregate ninety-five-year term of imprisonment: sixty years for murder and thirty-five years for attempted murder.[1]

Jones' Sentence Does Not Warrant 7(B) Revision

[8] Jones asks us to review and revise his sentence.[2] The Indiana Constitution authorizes this Court to review and revise a trial court's sentencing decision as provided by rule. Ind. Const. art. 7, § 6. Indiana Appellate Rule 7(B) provides we 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 principal role of appellate review is to leaven the outliers, not to achieve a perceived correct sentence in each case. *Conley v. State*, 183 N.E.3d 276, 288 (Ind. 2022). Thus, "we reserve our 7(B) authority for exceptional cases." *Faith v. State*, 131 N.E.3d 158, 160 (Ind. 2019) (per curiam).

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[1] On appeal, Jones does not challenge his sentence for Class A misdemeanor carrying a handgun without a license.

[2] The sentencing range for Jones' murder conviction was forty-five to sixty-five years, with an advisory sentence of fifty-five years. Ind. Code § 35-50-2-3(a) (2015). And the sentencing range for his attempted murder conviction was twenty to forty years, with an advisory sentence of thirty years. I.C. § 35-50-2-4(b) (2014).

[9] "[S]entencing is principally a discretionary function in which the trial court's judgment should receive considerable deference." *Cardwell v. State*, 895 N.E.2d 1219, 1222 (Ind. 2008). "Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant's character (such as substantial virtuous traits or persistent examples of good character)." *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). The question "is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate." *Helsley v. State*, 43 N.E.3d 225, 228 (Ind. 2015) (quoting *King v. State*, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008)) (emphasis omitted). Whether we regard a sentence as inappropriate "turns on our sense of 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." *Cardwell*, 895 N.E.2d at 1224. The defendant bears the burden of persuading us a revised sentence is warranted. *See Hall v. State*, 177 N.E.3d 1183, 1197 (Ind. 2021).

[10] Jones argues the nature of his offense weighs in favor of revision because the murder of Banks was not "particularly gruesome," and the attempted murder of Brown was "not particularly egregious." *Appellant's Br.* at 25–26. "The nature of the offense is found in the details and circumstances of the commission of the offense and the defendant's participation." *Zavala v. State,* 138 N.E.3d 291, 301 (Ind. Ct. App. 2019) (quoting *Perry v. State*, 78 N.E.3d 1, 13 (Ind. Ct. App. 2017)), *trans. denied*. Here, Jones sent several threatening text messages to

Brown and Banks leading up to the shooting. Jones' threats were explicit, telling Banks "I'm legit going to kill you." *Ex. Vol. 2* at 184. Then, on the night of his offense, Jones went to Brown's home and fired multiple shots at Brown and Banks, killing Banks and injuring Brown. During the shooting, Brown's two children, including Jones' own child, were in the home. Also, Jones violated a no-contact order while perpetrating his crime. We cannot say the nature of Jones' offense weighs in favor of 7(B) revision.

[11] As to Jones' character, Jones contends his lack of criminal history warrants a revised sentence. Although Jones did not have a history of criminal convictions before this case, he had several arrests for felony offenses—including an alleged domestic battery against Brown while she was pregnant. *See Chastain v. State,* 165 N.E.3d 589, 599 (Ind. Ct. App. 2021) (stating "allegations of prior criminal activity may be considered during sentencing even if the defendant has not been convicted of an offense related to the activity"), *trans denied.* Jones also committed this offense while on pre-trial release in another case. And while in jail awaiting trial on these offenses, Jones committed multiple disciplinary violations, like assault and disruption of jail operations. Moreover, Jones shot his child's mother and violated a no-contact order when doing so. These instances reflect poor character and weigh against revising his sentence.

[12] Jones also claims he accepted responsibility for killing Banks. But during his allocution, Jones maintained he is a "great individual" and expressed the victims' families "should still feel the same way" about him even though he

killed Banks. *Tr. Vol. 11* at 134–35. We do not consider his statement an acceptance of responsibility or a display of good character.

[13] In sum, Jones has failed to carry his burden of persuading us his sentence warrants revision. The trial court's judgment is entitled to considerable deference and Jones has not presented compelling evidence regarding the nature of his offense or his character to justify overriding the trial court's judgment.

Conclusion

[14] Jones' ninety-five-year aggregate sentence is not inappropriate in light of the nature of his offense and his character. Therefore, Jones' sentence does not warrant revision.

[15] Affirmed.

Altice, C.J., and Weissmann, J., concur.

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