MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

J. Trinidad Ramirez, II,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 19, 2022

Court of Appeals Case No.
22A-CR-1143

Appeal from the
Allen Superior Court

The Honorable
Frances C. Gull, Judge

Trial Court Cause No.
02D05-2004-MR-12

Vaidik, Judge.

Case Summary

[1] J. Trinidad Ramirez, II, was convicted of murder, felony murder, and a firearm enhancement and sentenced to 150 years. He now appeals, arguing the evidence is insufficient to support the convictions and enhancement and his sentence is inappropriate. We affirm.

Facts and Procedural History

[2] On the night of April 9, 2020, Ramirez and a friend, Jacob Folkner, met with Marcos Casares, Ramirez's childhood friend. The three went to Casares's house in Fort Wayne. Also in the home were Kyle Cull and Doke McBride. For most of the night, Ramirez, Folkner, and Casares hung out in the living room. McBride was also in the living room laying on a couch, but he did not interact much with the group because he passed out early in the night. Cull came "in and out" throughout the night. Tr. Vol. III p. 21. Around 10:30 p.m., Ramirez, Folkner, and Casares went to a nearby store for more alcohol and then returned to the home.

[3] Soon after, the environment in the room became "tense." *Id.* at 24. Cull came in and tried to "headbutt" Ramirez, and Ramirez punched him in the face. *Id.* at 25. Cull then went into another room and did not return. Ramirez calmed down after the fight, but a few hours later he and Casares began "getting loud with each other." *Id.* at 28. Casares pulled out a gun, at which point Ramirez "lunged" toward him, causing the gun to fall. *Id.* Ramirez picked up the gun

and shot Casares eight to ten times. Ramirez then set one of the couches in the room on fire, and he and Folkner left. The fire quickly spread throughout the house. While Folkner and Ramirez were driving away, near the intersection of Wayne Street and Anthony Street, Folkner saw Ramirez throw something out the window. Ultimately, the two also set fire to Folkner's car to make sure there was "no evidence left in it." *Id.* at 35.

[4] Officers responded to the fire at the house and found the bodies of Casares, Cull, and McBride, all deceased. The officers tracked Casares's phone's location and discovered it had been picked up at the intersection of Wayne Street and Anthony Street by a passerby. On April 14, detectives interviewed both Folkner and Ramirez. Ramirez admitted to detectives that he was at Casares's house that night but claimed he knew nothing about Casares's murder or the fire. Folkner first told detectives he was not involved, but he eventually told detectives about the events as described above.

[5] The State charged Ramirez with murder (for the death of Casares), felony murder (for the death of Cull), Level 2 felony arson, and a firearm enhancement (for using a gun in the murder of Casares). A jury trial was held in March and April 2022.

[6] Folkner testified about the events of that night. He also admitted he did not at first tell police the truth. Antonio Clark, who was in prison with Ramirez before the trial, testified Ramirez confessed to him that there was a "misunderstanding between [Ramirez] and his friend" and "he ended up killing him." *Id.* at 183.

[7] Detective John Helmsing of the Fort Wayne Police Department testified about his investigation. He presented cell-tower records showing all the men's phone activity and the phones' locations that evening. Casares's, Folkner's, and Ramriez's phones were together for most the evening until around 2:00 a.m. the next morning, when Casares's phone stopped moving around the intersection of Wayne Street and Anthony Street and Folkner's and Ramirez's phones continued together. Dr. Kent Harshbarger, a forensic pathologist who conducted the victims' autopsies, testified and confirmed Casares died from gunshot wounds and Cull died from smoke inhalation. He could not confirm that McBride also died from the fire, as McBride had a lethal level of alcohol in his blood stream that could have caused his death that night. He also noted that Cull had injuries to his face consistent with blunt-force trauma, such as a "punch." Tr. Vol. II p. 248.

[8] The jury found Ramirez guilty as charged. At the sentencing hearing, the trial court entered convictions for murder with the enhancement and for felony murder.[1] The court found two aggravators: (1) Ramirez's criminal record, consisting of three misdemeanors and one Level 6 felony, and (2) "the nature and circumstances of the crimes" were "particularly egregious with multiple victims." Tr. Vol. IV p. 119. The court found one mitigator: Ramirez had strong family support. The court sentenced Ramirez to sixty-five years for murder, enhanced by twenty years for using a gun, and sixty-five years for

[1] The arson count was merged into the felony-murder count due to double-jeopardy concerns.

felony murder, and ordered the sentences to run consecutively, for a total of 150 years.

[9] Ramirez now appeals.

Discussion and Decision

I. Sufficiency

[10] Ramirez first contends the evidence is insufficient to support his convictions for murder and felony murder, as well as for the firearm enhancement. When reviewing such claims, we neither reweigh the evidence nor judge the credibility of witnesses. *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015). We will only consider the evidence supporting the verdict and any reasonable inferences that can be drawn from the evidence. *Id.* A conviction will be affirmed if there is substantial evidence of probative value to support each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

[11] Ramirez argues the "only evidence of guilt . . . is [Folkner's] testimony," which is full of "inconsistencies" and "lies" and therefore not credible. Appellant's Br. p. 24. But the testimony of a single witness is sufficient to sustain a conviction. *Bailey v. State*, 979 N.E.2d 133, 135 (Ind. 2012). As for Folkner's credibility, we do not judge witness credibility. *Willis*, 27 N.E.3d at 1066. There is one exception to this rule: the incredible-dubiosity doctrine, under which we can impinge upon a fact-finder's responsibility to judge the credibility of the

witnesses when "the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it." *Hampton v. State*, 921 N.E.2d 27, 29 (Ind. Ct. App. 2010), *trans. denied*. Ramirez does not make an argument under that doctrine.

[12] And even if we were to treat Ramirez's argument as an incredible-dubiosity argument, he would not prevail. The incredible-dubiosity doctrine "requires that there be: 1) a sole testifying witness; 2) testimony that is inherently contradictory, equivocal, or the result of coercion; and 3) a complete absence of circumstantial evidence." *Moore v State*, 27 N.E.3d 749, 756 (Ind. 2015). Folkner was not the sole testifying witness identifying Ramirez as the culprit—Clark also testified that he had been told by Ramirez that he committed the crimes. *See id*. at 757 (only eyewitness was not the "sole testifying witness" for purposes of the doctrine because defendant's prison roommate also testified that the defendant confessed to the crime). Nor do we believe Folkner's testimony was inherently contradictory, equivocal, or the result of coercion. To be sure, Folkner's testimony did not match the initial statement he gave to police, in which he claimed to not know anything about the incident. But these do not make his testimony inherently inconsistent. *See Smith v. State*, 34 N.E.3d 1211, 1221 (Ind. 2015) (in discussing whether testimony is inherently inconsistent under the second factor of the incredible-dubiosity doctrine, it applies "only when the witness's trial testimony was inconsistent within itself, not that it was inconsistent with other evidence or prior testimony"). Finally, there is not an

absence of circumstantial evidence in this case. The State presented cell-phone records that corroborate Folkner's version of events that night.

[13] There is sufficient evidence to support Ramirez's convictions.

II. Inappropriate Sentence

[14] Ramirez next contends his 150-year sentence is inappropriate. Indiana Appellate Rule 7(B) 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." The appellate court's role under Rule 7(B) is to "leaven the outliers," and "we reserve our 7(B) authority for exceptional cases." *Faith v. State*, 131 N.E.3d 158, 159-60 (Ind. 2019) (quotation omitted). "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 must persuade us that their sentences are inappropriate. *Schaaf v. State*, 54 N.E.3d 1041, 1044-45 (Ind. Ct. App. 2016).

[15] The sentencing range for murder and felony murder is forty-five to sixty-five years, with an advisory sentence of fifty-five years. Ind. Code § 35-50-2-3(a). In addition, if a person knowingly or intentionally uses a firearm during the commission of certain offenses, including murder, the trial court may enhance

the sentence by five to twenty years. I.C. § 35-50-2-11. Here, the trial court imposed the maximum sentence—sixty-five years for murder, enhanced by twenty years for using a gun, and sixty-five years for felony murder, to be served consecutively, for a total sentence of 150 years.

[16] Ramirez argues the nature of the offenses does not warrant the maximum sentence. He points to the circumstances of the murder of Casares, specifically that it was not premediated, he did not arrive at the home with a weapon, and he acted "under the haze of alcohol and emotion." Appellant's Br. p. 26. Despite these facts, we agree with the trial court that the nature of the offenses here is "particularly egregious." Ramirez shot his childhood friend between eight and ten times. He then set the home on fire to dispose of the evidence, despite knowing there were two other people in the home. Neither Cull nor McBride survived the fire, and the only reason Ramirez was not charged with McBride's death is because the State could not conclusively prove the fire caused his death. Nor has Ramirez shown a particularly good character. As he acknowledges, setting Folkner's car on fire to destroy evidence and evade law enforcement "does not reflect well" on his character. *Id.* And he does have a criminal history, including a felony conviction.

[17] Given the egregious nature of the crimes here, we cannot say the maximum sentence is inappropriate.

[18] Affirmed.

Riley, J., and Bailey, J., concur.