MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Austin J. Hollifield,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 1, 2023

Court of Appeals Case No. 23A-CR-1014

Appeal from the Greene Circuit Court

The Honorable Erik C. Allen, Judge

Trial Court Cause No. 28C01-2212-F4-13

Memorandum Decision by Judge Brown
Judges Vaidik and Bradford concur.

Brown, Judge.

[1] Austin J. Hollifield appeals his conviction and sentence for possession of a firearm by a serious violent felon as a level 4 felony and habitual offender enhancement. He raises three issues which we consolidate and restate as:

I. Whether the trial court abused its discretion in admitting certain evidence; and

II. Whether his sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

Facts and Procedural History

[2] On December 17, 2022, Heather Goodman ("Heather") drove her brother, Brandon Goodman ("Brandon"), to an address in Greene County in her vehicle, which was equipped with a dashcam, to locate Brandon's wife, Jessica, and his vehicle.[1]

[3] At the residence of Robert Steed, Heather and Brandon found Brandon's vehicle. Heather stopped, and Brandon went up to the front door, knocked, "hollered [Jessica's] name a few times," and knocked again. Transcript Volume II at 127. Brandon observed someone peek out of the window, realized it was Jessica, and said: "I know you're here, I just want my vehicle." *Id.* at 99. No one exited the residence, and Brandon knocked on the front door again.

[1] Brandon testified: "Well the way I, the way I'd seen it, I, I'd pay for most of the vehicle, okay, so it's mine." Transcript Volume II at 137.

[4] Jessica exited the back door of the residence, met Brandon by the vehicle, and they argued "for a little bit." *Id.* Jessica asked Brandon what he was doing there, and Brandon said: "[I]f you want to come with me you can come with me." *Id.* at 127. Jessica returned to the residence, and Brandon thought she was going to exit the house again and leave with him.

[5] Hollifield, who had been staying at Steed's house for between eleven and fourteen days and had been previously convicted of burglary as a class C felony and possession of methamphetamine as a level 5 felony, retrieved a shotgun, which did not belong to Steed, from his satchel, exited the house with the shotgun, and pointed it at Brandon. Heather stepped out of her vehicle and began hollering and telling him not to shoot her brother. Hollifield pointed the shotgun at her, and Brandon said: "[We'll] leave the place, don't shoot, please don't." *Id.* at 101. Heather and Brandon entered Heather's vehicle and drove until they stopped at the corner of the road. Brandon realized Jessica was leaving and told Heather to follow Jessica "so he could get in the car with" her. *Id.* at 102. Heather drove about a block and a half. Brandon exited Heather's vehicle, entered the vehicle with Jessica, and drove away. Heather called 911, met with Jasonville Police Officer Brian Pilant, and later provided him with the footage from her dashcam.

[6] Officer Pilant went to Steed's residence and, using his PA, asked Hollifield multiple times to exit with his hands raised. Steed exited the residence, and Officer Pilant asked him to have Hollifield exit with his hands where he could see them. Steed entered the residence, and Officer Pilant again asked Hollifield

to exit the residence. Steed came out at Officer Pilant's request and indicated Hollifield was still in the residence and had shoved him out the back door. Officer Pilant waited for additional units to arrive and then entered the residence, and Steed retrieved a "Hatfield, 12 gauge, sawed off shotgun" from inside the residence. *Id.* at 194. Indiana Conservation Officer Matt Landis launched a thermal imaging drone and located Hollifield in a wooded area 300 yards from the residence.

[7] On December 19, 2022, the State charged Hollifield with: Count I, possession of a firearm by a serious violent felon as a level 4 felony; Count II, criminal recklessness as a level 6 felony; Count III, criminal recklessness as a level 6 felony; Count IV, pointing a firearm as a level 6 felony; and Count V, pointing a firearm as a level 6 felony. The State also alleged that Hollifield was an habitual offender. The State later filed a motion to dismiss Counts II through V, which the court granted.

[8] On February 7 and 8, 2023, the court held a jury trial. The State presented the testimony of multiple witnesses including Heather, Brandon, Steed, Officer Pilant, and Officer Landis. During Heather's testimony, the State introduced the dashcam footage as State's Exhibit 2. Hollifield's counsel objected and asserted: "It's a very short clip of the entire occurrence, so I would object that it's not a complete record. It just shows the last minute of a 7+ minute encounter at Mr. Steed's home. So, it's incomplete. And, based on that, its value is more prejudicial than prohibitive [sic]." *Id.* at 106. The prosecutor stated that "it's the only video that we have at this time" and "the video

encompasses the entirety of the defendant being involved in this incident and shows him committing the crime, shows him possessing the firearm." *Id.* He also asserted: "We had reached out after depositions to see if we could acquire additional footage from before the defendant came outside the home, but by that time, the, the video system that [Heather] has, no longer had that, that video still on there. So, this is all that we have is, is again, of the actual crime itself." *Id.* at 106-107. Hollifield's counsel replied: "I guess." *Id.* at 107. The court overruled the objection, and State's Exhibit 2 was played for the jury. Heather testified that neither she nor Brandon had any weapons, made any threats toward anyone, or entered the residence.

[9] On cross-examination, Heather indicated that it was fair to say that she was at the residence for "a good six or seven minutes" before the video begins. *Id.* at 110. She testified that Brandon was "kind of aggravated" and was in work release and had been "hearing things about [Jessica] with other men." *Id.* at 114.

[10] Brandon testified that neither he nor Heather had any weapons and he did not threaten anyone. On cross-examination, Brandon indicated that he went to the residence to confront Jessica. He also indicated he broke "the ignition or steering column or something" when Jessica went inside the residence. *Id.* at 137. On redirect examination, when asked what he broke on the vehicle, he answered: "It's the, where you put the key in the plastic piece on it, just broke the plastic." *Id.* at 146. He stated: "I was mad, and I just went to start it and it just broke." *Id.*

[11] After the State rested, Jessica testified that she was at Steed's house, heard her name "being screamed and banging on the side of the house and just chaos . . . ." *Id.* at 221. According to her testimony, she told Hollifield she thought it was Brandon, she "figured [Brandon] was there to get the car," Brandon sounded angry, and she was scared but went outside. *Id.* at 223. Brandon "got in [her] face and started yelling at" her "to get the f in the car." *Id.* at 222. She went back in the house, Hollifield "started going outside," *Id.*, and she told him to "just leave it alone," *id.* at 241, and she was "just getting [her] stuff and [was] going to leave" because she did not want a confrontation. *Id.* at 222. When asked if it was fair to say that she did not see what happened with the gun, she answered: "I didn't even know he had a gun." *Id.* at 224. She testified that after she left in the vehicle, Heather and Brandon "pulled up on" her, and Brandon opened her driver's side door, told her "to get the F over," jumped in the driver's seat, and "sped off." *Id.* at 225. She also stated that she knew Brandon had a temper and that she had talked to Hollifield about her relationship with Brandon. On cross-examination, Jessica indicated it was fair to say that Brandon expected her "to come back and [she] was going to go home and . . . talk about [the] marriage." *Id.* at 239. She also indicated that Brandon never entered the house that day and she never saw him with any type of weapon.

[12] Hollifield testified that Jessica discussed Brandon with him, he had met Brandon once, and he did not like him. He stated that he was "shell shocked" when he first heard the banging. Transcript Volume III at 15. According to his

testimony, Jessica told him it was Brandon, the "back doors [were] getting banged on," and he thought Brandon was trying to kick in the door. *Id.* at 18. He heard Jessica screaming and saying: "Bradon, stop it, Brandon, stop it, Brandon, stop it." *Id.* at 19. He went into Steed's room, "grabbed the shotgun, that's always behind the dresser," and heard Steed say: "[G]et them out of my driveway. Get this shit out of my house. Make sure she's okay." *Id.* at 20. Jessica entered the house, and he could tell she was scared. He then exited the house, saw Brandon in the car, and raised the gun on Brandon. When asked what was running through his mind, he stated: "I was just trying to neutralize it. I just wanted it gone." *Id.* at 21. He also testified that the gun did not belong to him and had been in the house a long time.[2]

[13] On cross-examination, when asked if he was trying to allege that Brandon tried to kill Jessica, he answered: "That's not, no, that's not what I was getting at with any of my testimony, no." *Id.* at 25. When asked if Brandon had not threatened him, he answered: "He was yelling, cussing. Doing the same thing that normal men do." *Id.* at 35. When asked where that was shown on the video, he answered: "Well, and there's a bunch of it missing." *Id.* He also testified that he ran because he had a warrant for possession of marijuana.

[2] When asked where the gun Hollifield possessed came from, Steed answered: "I, I suppose he had it somewhere." Transcript Volume II at 163. He testified the gun did not belong to him and that Hollifield retrieved the gun from Hollifield's satchel.

[14] The court instructed the jury regarding self-defense. The jury found Hollifield guilty of possession of a firearm by a serious violent felon as a level 4 felony. Hollifield admitted to being an habitual offender.

[15] At the sentencing hearing, James Trueblood, Hollifield's younger brother, testified that Hollifield had always been his "guiding light" and was a good brother. *Id.* at 96. He stated that they "had it rough growing up," his mother raised him, and his grandparents raised Hollifield. *Id.* at 97. Angela Goble, Hollifield's mother, testified that Hollifield was raised by her parents who were truck drivers and did not "give him a lot of guidance." *Id.* at 100. She stated that he was "very dedicated to those he loves." *Id.* She indicated that Hollifield has a history of substance abuse and is kinder when he is not on drugs.

[16] Hollifield stated that he understood his wrongs and wished he would have reacted differently under the circumstances. He also stated:

> So, when woken up out of a . . . deranged sleep I would say, I went immediately to . . . def-con 5, you know. I can't blame that on anything other than the lifestyle that I've lived on and off . . . throughout my adult life. So, I, the victims I, I guess I couldn't understand how a brother would bring his little sister to a situation like that knowing that there's a chance of [a] hostile environment. I would never do that with my brother. So, in my mind, that's what I felt about is that I acted in anger like that. I never wanted that to happen. I never would have done that. So, for that I'm, I'm sorry.

Id. at 104-105.

[17] The court found the aggravating factors included Hollifield's history of juvenile adjudications and criminal convictions, his failure to appear for hearings in other causes, the fact he was on probation at the time of the offense, "[b]eyond the elements of possessing a firearm in the instant offense, [he] pointed a sawed off shotgun at two people while committing the instant offense," and he fled the scene and hid in the woods until law enforcement located him with the assistance of a drone. Appellant's Appendix Volume II at 131. The court found the mitigating factors included that Hollifield "did indicate some remorse for pointing the firearm at one of the individuals" and he has a long history of substance abuse and had a difficult upbringing which the court found to carry "minimal weight because [he] has had multiple opportunities to address these issues through probation services and has failed to do so." *Id.* The court found that the aggravating factors substantially outweighed the mitigating factors. The court sentenced Hollifield to ten years enhanced by ten years for his status as an habitual offender.

Discussion

I.

[18] The first issue is whether the trial court abused its discretion in admitting the video recording taken from Heather's dashcam. Hollifield cites Ind. Evidence Rule 106 and asserts that the State introduced only the portion of the dashcam footage that showed him coming outside with a gun and the portion showing the circumstances leading up to that portion should have been admitted in fairness because "that portion of the video showed the evidence [he] needed to

prove that he reasonably feared for [Jessica's] safety and came outside with a gun to defend her." Appellant's Brief at 14. He contends that the admission of only a portion of the video was more prejudicial than probative and inadmissible under Ind. Evidence Rule 403.

[19] The State contends that Hollifield's request was one to exclude, not include evidence, and Ind. Evidence Rule 106 encompasses the doctrine of completeness which is a rule where a party may introduce additional evidence, not a rule under which a party seeks to exclude evidence. It also contends that the video was relevant, Hollifield had not shown that its probative value was outweighed by prejudice, and that, even if the trial court erred in admitting the video, any error was harmless.

[20] Generally, the trial court is afforded wide discretion in ruling on the admissibility of evidence. *Shinnock v. State*, 76 N.E.3d 841, 842 (Ind. 2017). "On appeal, evidentiary decisions are reviewed for abuse of discretion and are reversed only when the decision is clearly against the logic and effect of the facts and circumstances." *Id.* at 842-843. "A trial judge has the responsibility to direct the trial in a manner that facilitates the ascertainment of truth, ensures fairness, and obtains economy of time and effort commensurate with the rights of society and the criminal defendant." *Vanway v. State*, 541 N.E.2d 523, 526 (Ind. 1989). We may affirm a trial court's decision regarding the admission of evidence if it is sustainable on any basis in the record. *Barker v. State*, 695 N.E.2d 925, 930 (Ind. 1998), *reh'g denied*.

[21] Ind. Evidence Rule 401 provides that evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action. Ind. Evidence Rule 403 provides "[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence."

[22] The doctrine of completeness is a common law doctrine that, "[w]hen one party introduces part of a conversation or document, the opposing party is generally entitled to have the entire conversation or entire instrument placed into evidence." *Lewis v. State*, 754 N.E.2d 603, 606 (Ind. Ct. App. 2001) (quoting *McElroy v. State*, 553 N.E.2d 835, 839 (Ind. 1990)), *trans. denied*. The doctrine of completeness has been incorporated into the Indiana Evidence Rules as Evidence Rule 106. *Norton v. State*, 772 N.E.2d 1028, 1033 (Ind. Ct. App. 2002), *trans. denied*. Ind. Evidence Rule 106 is titled "Remainder of or Related Writing or Recorded Statements" and provides: "If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part--or any other writing or recorded statement--that in fairness ought to be considered at the same time."

[23] The record reveals that the prosecutor stated that the video contained in State's Exhibit 2 constituted "the only video that we have at this time" and it "encompasses the entirety of the defendant being involved in this incident and shows him committing the crime, shows him possessing the firearm."

Transcript Volume II at 106. Hollifield's counsel replied: "I guess." *Id.* at 107. Multiple witnesses including Jessica, Steed, and Hollifield testified regarding the knocking and yelling that occurred prior to Hollifield exiting the residence. The video shows Brandon walking around for approximately forty-five seconds before Hollifield emerges from the house with a shotgun. Under these circumstances, admission of the video was not error.

II.

[24] The next issue is whether Hollifield's sentence is inappropriate in light of the nature of the offense and the character of the offender. Hollifield argues he was thrust into a situation against his will and "his actions, even if wrong, were a result of that situation." Appellant's Brief at 18. Without citation to the record, he also contends he had a traumatic upbringing, struggled with substance abuse, always looked out for his younger brother, and was described as loyal and protective.

[25] Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). "[W]hether we regard a sentence as appropriate at the end of the day 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 v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008).

[26] Ind. Code § 35-50-2-5.5 provides that a person who commits a level 4 felony shall be imprisoned for a fixed term of between two and twelve years, with the advisory sentence being six years. At the time of the offense, Ind. Code § 35-50-2-8(i) provided that the court shall sentence a person found to be an habitual offender to an additional fixed term that is between six years and twenty years for a person convicted of a level 4 felony.

[27] Our review of the nature of the offense reveals that Hollifield, who had been previously convicted of burglary as a class C felony and possession of methamphetamine as a level 5 felony, retrieved a shotgun, exited Steed's house, and pointed the shotgun at Brandon and Heather who were unarmed. After law enforcement arrived, Hollifield left Steed's home and was not discovered until he was identified in a wooded area 300 yards from the residence by the use of a drone.

[28] Our review of the character of the offender reveals that Hollifield testified at the trial that his grandparents brought him home from the hospital and they were "good people." Transcript Volume III at 2. He testified that he "[n]ever really got along" with his biological mother and lived with her for a period of time when his younger brother was born before he was adopted by his grandparents. *Id.* at 3. As a juvenile, Hollifield was alleged to have committed intimidation, battery, inhaling toxic vapors, possession of a legend drug, and theft. The

presentence investigation report ("PSI") indicates that Hollifield has been "adjudicated a delinquent child for five offenses, three of which would have been felonies if committed by an adult" and he was placed on probation which he ultimately violated and was committed to the Boys School. Appellant's Appendix Volume II at 107. As an adult, Hollifield was convicted of burglary as a class C felony in 2011; illegal consumption of an alcoholic beverage as a class C misdemeanor in 2012; dealing in a Schedule I, II, III controlled substance as a class B felony in 2013; failure to return to lawful detention as a level 6 felony in 2015; resisting law enforcement as a class A misdemeanor in 2019; and possession of methamphetamine as a level 5 felony in 2021. The PSI reveals that Hollifield had pending charges of possession of marijuana as a class A misdemeanor and possession of paraphernalia as a class C misdemeanor. It indicates that he has utilized community corrections, has violated work release, has had two probation violations, and was on probation at the time of the offense.

[29] The PSI states that Hollifield's overall risk assessment score using the Indiana Risk Assessment System places him in the very high risk to reoffend category. The probation officer who completed the PSI recommended "a sentence well above the advisory of 6 years" and an enhancement "of at least 10 to 12 years." *Id.* at 111. After due consideration, we conclude that Hollifield has not

sustained his burden of establishing that his sentence is inappropriate in light of the nature of the offense and his character.[3]

[30] For the foregoing reasons, we affirm Hollifield's conviction and sentence.

[31] Affirmed.

Vaidik, J., and Bradford, J., concur.

[3] To the extent Hollifield argues the trial court abused its discretion in sentencing him by failing to find strong provocation as a mitigating factor and by improperly finding his criminal history as an aggravating factor, we need not address this issue because we find that his sentence is not inappropriate. *See Chappell v. State*, 966 N.E.2d 124, 134 n.10 (Ind. Ct. App. 2012) (noting that any error in failing to consider the defendant's guilty plea as a mitigating factor is harmless if the sentence is not inappropriate) (citing *Windhorst v. State*, 868 N.E.2d 504, 507 (Ind. 2007) (holding that, in the absence of a proper sentencing order, Indiana appellate courts may either remand for resentencing or exercise their authority to review the sentence pursuant to Ind. Appellate Rule 7(B)), *reh'g denied*; *Mendoza v. State*, 869 N.E.2d 546, 556 (Ind. Ct. App. 2007) (noting that, "even if the trial court is found to have abused its discretion in the process it used to sentence the defendant, the error is harmless if the sentence imposed was not inappropriate"), *trans. denied*), *trans. denied*. Even if we were to address Hollifield's abuse of discretion argument, we would not find it persuasive in light of the record.