

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jhanika R. Nance,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 8, 2023

Court of Appeals Case No.
23A-CR-1354

Appeal from the Madison Circuit
Court

The Honorable Angela G. Warner
Sims, Judge

Trial Court Cause No.
48C01-2012-F6-3044

Memorandum Decision by Judge Bradford
Judges Vaidik and Brown concur.

Bradford, Judge.

Case Summary

- [1] Under cause number 48C01-2012-F6-3044 (“Cause No. F6-3044”), Jhanika Nance was charged with and pled guilty to Level 6 felony failure to return to lawful detention. The trial court held a combined sentencing hearing for Cause No. F6-3044 and another pending case, cause number 48C01-2010-F3-2451 (“Cause No. F3-2451”).¹ With regard to Cause No. F6-3044, the trial court sentenced Nance to two years in the Department of Correction (“DOC”) to be served consecutively to the sentence imposed in Cause No. F3-2451. Nance challenges her two-year sentence, arguing that the trial court failed to make a sufficient sentencing statement. We affirm.

Facts and Procedural History

- [2] On November 4, 2020, Nance “was placed on Madison County Work Release under cause number 48C01-1810-F6-2718 for the original charge of Failure to Return to Lawful Detention.” Tr. Vol. II p. 156. Six days later, at 7:02 a.m., she was temporarily released from work release “for an NA meeting in Anderson.” Tr. Vol. II p. 156. Nance “was scheduled to return to work release at 8:30 a.m. and failed to do so.” Tr. Vol. II p. 156. On December 31, 2020, Nance was charged under Cause No. F6-3044 with Level 6 felony failure to return to lawful detention.

¹ Nance was convicted of Level 3 felony rape and Level 6 felony sexual battery under Cause No. F3-2451.

[3] On April 19, 2023, Nance pled guilty under Cause No. F6-3044. That same day, the trial court conducted a bench trial for Cause No. F3-2451. After the trial court accepted Nance’s guilty plea under Cause No. F6-3044 and found her guilty under Cause No. F3-2451, the trial court held a combined sentencing hearing. The trial court found Nance’s criminal history to be an aggravating factor and her guilty plea in Cause No. F6-3044 and her mental health to be mitigating factors. The trial court found “that aggravation outweighs mitigation that would warrant a sentence ... above the advisory *under both cases.*” Tr. Vol. II p. 168 (emphasis added). The trial court then sentenced Nance under Cause No. F6-3044 to a two-year executed sentence, which the trial court ordered to run consecutive to the sentence imposed under Cause No. F3-2451.

Discussion and Decision

[4] Nance contends that the trial court abused its discretion in sentencing her, claiming that the trial court failed to enter a sufficient sentencing statement. Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *modified on other grounds on reh’g*, 875 N.E.2d 218 (Ind. 2007). “An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.” *Id.* (quotation omitted).

[5] “One way in which a trial court may abuse its discretion is failing to enter a sentencing statement at all.” *Id.*

Other examples include entering a sentencing statement that explains reasons for imposing a sentence—including a finding of aggravating and mitigating factors if any—but the record does not support the reasons, or the sentencing statement omits reasons that are clearly supported by the record and advanced for consideration, or the reasons given are improper as a matter of law. Under those circumstances, remand for resentencing may be the appropriate remedy if we cannot say with confidence that the trial court would have imposed the same sentence had it properly considered reasons that enjoy support in the record.

Id. at 490–91. “A single aggravating circumstance may be sufficient to enhance a sentence.” *Baumholser v. State*, 62 N.E.3d 411, 417 (Ind. Ct. App. 2016), *trans. denied.*

[6] In the instant matter, Nance pled guilty to and was convicted of a Level 6 felony. A person who commits a Level 6 felony “shall be imprisoned for a fixed term of between six (6) months and two and one-half (2½) years, with the advisory sentence being one (1) year.” Ind. Code § 35-50-2-7. After accepting Nance’s guilty plea under Cause No. F6-3044, the trial court imposed a slightly aggravated two-year sentence.

[7] Nance asserts that the trial court abused its discretion in sentencing her because the court failed to clearly identify to which case it had applied the stated aggravating and mitigating circumstances. We cannot agree. It is clear from the record that the trial court found that the same aggravating circumstance, *i.e.*,

Nance’s significant criminal history,² and mitigating circumstances, *i.e.*, Nance’s guilty plea in Cause No. F6-3044 and her mental-health issues, applied to both Cause No. F6-3044 and Cause No. F3-2451.

[8] Furthermore, despite Nance’s claim to the contrary, in finding that the aggravating nature of Nance’s criminal history outweighed the mitigating circumstances, the trial court explicitly stated that “[o]n balance though, the court finds that aggravation outweighs mitigation that would warrant a sentence that [is] above the advisory *under both cases*.” Tr. Vol. II p. 168 (emphasis added). Given the trial court’s explicit statement, we agree with the State that “in context, when the trial court was stating that it found [Nance’s] criminal history to be an aggravating factor, there is one only reasonable interpretation—it applied that aggravator to the present case.” Appellee’s Br. p. 9. Thus, given the record before us, we cannot say that the trial court abused its discretion in sentencing Nance.

[9] The judgment of the trial court is affirmed.

Vaidik, J., and Brown, J., concur.

² Nance’s criminal history is lengthy, with convictions for numerous violent offenses, and contains numerous violations of probation/community corrections. It also includes two prior convictions for failure to return to lawful detention, the crime involved here.