

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Monte G. Faulkner
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 21, 2023
Court of Appeals Case No.
23A-CR-1910
Appeal from the Howard Circuit
Court
The Honorable Lynn Murray,
Judge
Trial Court Cause No.
34C01-2006-FA-1542

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

- [1] Monte G. Faulkner appeals a scrivener’s error in his sentence for child molesting, as a Level 4 felony.¹ We reverse and remand with instructions to correct the error and affirm in all other respects.

Facts and Procedural History

- [2] Faulkner entered into a plea agreement with the State under which he pled guilty to Count 3, child molesting, as a Level 4 felony, and three lesser included offenses of attempted sexual battery, as Level 6 felonies, in Counts 8, 9, and 10.² Pursuant to the agreement, the State agreed to seek dismissal of all the remaining counts, and sentencing was left to the trial court’s discretion. On June 21, 2023, the trial court accepted the plea agreement and entered judgment of conviction on counts 3, 8, 9, and 10. On the State’s motion, the trial court dismissed the remaining charges.
- [3] On July 19, 2023, the trial court held the sentencing hearing and sentenced Faulkner to “12 years all executed” for Count 3, Level 4 felony child molesting. Tr. at 18. The court sentenced Faulkner to two-and-one-half years for each of the three convictions for attempted sexual battery, as Level 6 felonies. The trial court ordered the sentences to be served consecutively, for an aggregate

¹ Ind. Code § 35-42-4-3.

² I.C. § 35-42-4-8.

sentence of nineteen-and-one-half years, with seventeen years executed and two-and-one-half years suspended to probation.

- [4] In its subsequent written sentencing order, the trial court stated, in relevant part: “as to Count 3, Child Molest, a level 4 felony, the Court hereby sentences the defendant to the Indiana Department of Corrections (IDOC) for term of twelve (12) years (5,840 days), all executed.” Appealed Order at 2. In the Abstract of Judgment, the trial court also identified the twelve-year sentence on Count 3 as “5840 Days.” App. at 245. This appeal ensued.

Discussion and Decision

- [5] In this appeal, Faulkner only challenges the erroneous statements in the written sentencing order and abstract of judgment that his twelve-year sentence for Count 3 is “5,840 days.” Appealed Order at 2; *see also* App. at 245. Both Faulkner and the State agree that the trial court only sentenced Faulkner to twelve years on Count 3, and the reference to “5,840 days” is simply a scrivener’s error. That is, the written order and abstract of judgment should read “4,380 days”—which is the actual number of days in twelve years—rather than 5,840 days, which is the number of days in sixteen years.
- [6] Therefore, we reverse in part and remand this matter to the trial court to correct the scrivener’s errors in both the July 19, 2023, written sentencing order and the Abstract of Judgment, to wit: change “5,840” days on Count 3 to “4,380” days. We affirm the sentencing order in all other respects.

[7] Affirmed in part, reversed in part, and remanded with instructions.

May, J., and Felix, J., concur.