

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Jordan Alexander Scott,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 21, 2023
Court of Appeals Case No.
23A-CR-2077
Appeal from the
Kosciusko Superior Court
The Honorable
Karin A. McGrath, Judge
Trial Court Cause No.
43D01-2303-F5-165

Memorandum Decision by Judge Vaidik
Judges Bradford and Brown concur.

Vaidik, Judge.

Case Summary

- [1] Jordan Alexander Scott appeals his five-year sentence for two counts of Level 6 felony domestic battery, one count of Level 6 felony intimidation, and one count of Class A misdemeanor invasion of privacy, arguing it is inappropriate. We affirm.

Facts and Procedural History

- [2] Scott and K.P. began dating in 2020. Two years later, they had a daughter, A.A. K.P. has an older daughter as well. In February 2023, Scott was on pretrial release in another case, and a no-contact order was in effect prohibiting him from having contact with K.P. *See* Cause No. 43D01-2211-F4-867. Despite that order, on February 24, Scott and K.P. were at Scott's mother's house along with the two children when Scott got upset with K.P. because he thought she had taken a disrespectful tone toward him. Scott took K.P. to the bedroom, leaving the two children in the living room. As K.P. was lying on the bed in the fetal position, Scott punched her 15-20 times "[o]n [the] top of [her] head, on the side of [her] head," and "on the eye." Tr. Vol. II p. 55. He also threatened to kill her.
- [3] After the beating, Scott became worried that K.P.'s father (who lived with K.P.) would notice her injuries. Scott made K.P. book a hotel room for the night.

They dropped off K.P.'s older daughter with the father and took A.A. with them to the hotel.

[4] The next morning, on February 25, they checked out of the hotel and returned to Scott's mother's house. K.P. was getting ready to go to Disney on Ice to meet up with her older daughter. When the makeup K.P. was applying did not cover her black eye, Scott got upset again and struck her on the back of her neck with his elbow. K.P. picked up A.A., who was in the room crying, and sat down with her on the couch, hoping it would deter Scott from hitting her again. It did not, and Scott punched K.P. 5-6 times on the side of her head as she held A.A., who continued to cry.

[5] K.P. was able to escape out the front door with A.A. Scott banged on a window from inside the house and ordered K.P. to return. When K.P. did not return, Scott opened the front door and yelled, "I'll chase you down mother fu**er." *Id.* at 61. When K.P. still did not return, Scott chased her down as promised. As K.P. ran with A.A. in her arms, Scott pushed her, and both K.P. and A.A. fell to the ground. K.P. flagged a car for help, and they called 911. Meanwhile, Scott returned to his mother's house and threw A.A.'s belongings into the front yard. K.P. was taken to the hospital, where she was treated for a concussion. She also had bruising on her face and body. *See* Ex. 1 (photos).

[6] The State charged Scott with Level 6 felony domestic battery resulting in moderate bodily injury (February 24), Level 6 felony domestic battery in the presence of a child less than sixteen years old (February 25), Level 6 felony

intimidation (threat to kill), and Class A misdemeanor invasion of privacy (violation of no-contact order).¹ A jury trial was held, and Scott was convicted.

[7] At the sentencing hearing, evidence was presented that Scott has convictions for Class C felony battery, Class C felony intimidation, Class A misdemeanor domestic battery, Level 6 felony battery on a pregnant woman, and Level 4 felony unlawful possession of a firearm by a serious violent felon. Also, Smith has violated his probation twice and served time in both jail and prison. The trial court found several aggravators, including: (1) Scott has a criminal record; (2) he has a “tendency” toward “violence”; (3) he has violated his probation in the past; (4) he was on pretrial release in Cause No. F4-867 when he committed these offenses; and (5) he has shown “no remorse whatsoever.” *Id.* at 128. Finding no mitigators, the trial court sentenced Scott to consecutive terms of two-and-a-half years for each domestic-battery conviction and concurrent terms of two years for intimidation and one year for invasion of privacy, for a total sentence of five years in prison.

[8] Scott now appeals his sentence.

¹ The State also charged Scott with domestic battery to A.A. and strangulation of K.P., but the jury acquitted him of these charges.

Discussion and Decision

- [9] Scott contends his five-year fully executed sentence is inappropriate and asks us to revise it. 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 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, 160 (Ind. 2019). “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).
- [10] The sentencing range for a Level 6 felony is six months to two-and-a-half years, with an advisory sentence of one year. Ind. Code § 35-50-2-7(b). The sentencing range for a Class A misdemeanor is up to 365 days. I.C. § 35-50-3-2. Here, the trial court sentenced Scott to the maximum sentence for each Level 6 felony domestic-battery conviction and ordered them to be served consecutively. The court also sentenced Scott to two years for Level 6 felony intimidation and one year for Class A misdemeanor invasion of privacy but ordered them to be served concurrent to the domestic-battery sentences.

[11] Nothing about the nature of the offenses makes Scott's sentence inappropriate. Scott beat K.P. one day, causing a black eye and threatening to kill her. The next day, when K.P. couldn't cover her black eye with makeup, Scott beat her again. This time, however, the beating occurred not only in the presence of their one-year-old daughter but while K.P. was holding her in her arms. And both incidents occurred when a no-contact order was in effect.

[12] Scott's character also supports his sentence. Scott has a criminal history consisting of crimes of violence, and he was on pretrial release when he committed these offenses. Although Scott has completed probation once, he has violated it twice. And as the trial court found, he has shown no remorse. Scott has failed to persuade us that his five-year fully executed sentence is inappropriate.

[13] Affirmed.

Bradford, J., and Brown, J., concur.