MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Nike Lani Haynie,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

May 6, 2024

Court of Appeals Case No.
23A-CR-1543

Appeal from the Tippecanoe Circuit Court

The Honorable Sean M. Persin, Judge

Trial Court Cause No.
79C01-2011-MR-6

Memorandum Decision by Judge Bradford
Chief Judge Altice and Judge Felix concur.

Bradford, Judge.

Case Summary

[1] Nike Haynie brutally murdered Marc Sherwood, stabbing him more than a dozen times. At trial, Haynie argued that his actions were justified under the effects-of-battery defense. After a jury found him guilty, the trial court sentenced Haynie to a sixty-year term of incarceration. Haynie contends that the trial court denied him the opportunity to pursue his chosen defense, the trial court abused its discretion in admitting certain evidence and instructing the jury, and his sentence is inappropriate. We affirm.

Facts and Procedural History

[2] At some point in mid-2020, the then-seventeen-year-old Haynie met Sherwood on a "gay dating app called Jacked." Tr. Vol. III p. 39. Haynie thought of Sherwood as "a sugar daddy" and, in October of 2020, moved in with him. Tr. Vol. III p. 54.

[3] On October 29, 2020, Lafayette Police Officer Mark Griffith was dispatched to Sherwood's home. Haynie was present in the home and claimed that Sherwood had tried to rape him. Officer Griffith observed Sherwood lying bloody and naked on his bed, with two knives sticking out of his torso and his feet covered by blankets. There were three or four other persons present, each of whom claimed that Haynie had approached them and asked them for help, telling them that "he had just killed someone." Tr. Vol. II p. 195. When

Haynie sat down to speak to Officer Griffith, he attempted to clean his bloody hands with hand sanitizer.

[4] Lafayette Police Officer Cahoon[1] was the crime-scene technician assigned to Sherwood's home. Officer Cahoon noted that Sherwood's feet had been covered when law enforcement arrived and that there had been no blood on Sherwood's feet when the blankets were removed, meaning that Sherwood's feet had likely been covered at the time he was stabbed. Officer Cahoon observed blood spatter on the inside of the bedroom door, which indicated that the bedroom door had been closed. There was also blood spatter on the headboard and wall above Sherwood's body. One of the knives that was recovered from Sherwood's body had an eight- to ten-inch blade, while the other was smaller. Officer Cahoon further observed that, beside the bedroom, the rest of the house was "[i]mmaculate. Well organized, clean." Tr. Vol. II p. 217. Officer Cahoon did not find any disruption in the kitchen and later indicated that he would have expected to have seen items knocked over or blood splatter in the kitchen if the struggle had started there as Haynie would later suggest.

[5] Because Haynie had claimed to have been the victim of a potential sexual assault, he was taken for a sexual-assault exam. The exam was conducted by Rachel Moore. Moore observed that Haynie "did have some redness on the

[1] Officer Cahoon's first name is not apparent from the record.

inside of [his] throat," which she opined could have been the result of either "forced oral sex" or "a sore throat." Tr. Vol. II p. 235. Moore did not observe any other injuries to Haynie.

[6] During an interview with police, Haynie made a number of comments to police indicating that he had engaged in a relationship with Sherwood because Sherwood had given him money and had purchased him clothes and other items. Haynie claimed that he and Sherwood had been engaged in an argument before he stabbed him. Haynie reported that he had stabbed Sherwood one time in the kitchen, near the refrigerator, and that it sounded like a "gush." State's Ex. 93 at 31:09. He then followed Sherwood to the bedroom, where he heard Sherwood slamming drawers. The next thing he remembered was "blacking out and going ape sh[*]t." State's Ex. 93 at 29:42. Haynie also told police that after he had stabbed Sherwood for the first time in the bedroom, Sherwood had fallen face first on the bed before he had stabbed Sherwood's back.

[7] On October 31, 2020, Dr. Darin Wolfe conducted an autopsy on Sherwood's body. The autopsy revealed that Sherwood had suffered stab wounds to "the head, the chest, the abdomen, mostly on the left side, the left thigh and the back." Tr. Vol. II p. 246.[2] Dr. Wolfe concluded that at least one of the injuries to Sherwood's back was likely an exit wound. Specifically, Dr. Wolfe was able

[2] Toxicology results identified no substances, drugs, or medications in Sherwood's blood at the time of his death.

to trace the knife's path through Sherwood's body, with the knife piercing the left lung and the left lobe of the liver. The autopsy further revealed that Sherwood had been stabbed in the heart three times. Dr. Wolfe identified only one potential defensive injury, a small wound to the back of one of Sherwood's hands. He explained that a lack of defensive injuries could suggest either that Sherwood had been unconscious at the time of the attack or that the earliest of the wounds had been fatal. In total, Dr. Wolfe identified sixteen instances of sharp-force trauma, including the potential defensive wound.

[8] On November 4, 2020, the State charged Haynie with murder. On February 2, 2021, Haynie filed a notice that he intended to assert self-defense. Approximately a year later, on February 17, 2022, Haynie filed a second notice, which stated that he intended to assert that his alleged self-defense was justified as part of an effects-of-battery defense pursuant to Indiana Code section 35-41-3-11(b)(2). In this notice, Haynie stated that he "affirmatively agrees the State may cause [him] to be examined by an expert designated by the State." Appellant's App. Vol. II p. 85.

[9] On February 18, 2022, the trial court held a status conference. During this conference, the State informed the trial court that after speaking to Haynie's counsel, it understood that Haynie was "essentially asking that he be allowed to raise the defense of mental disease or defect which would then trigger the court appointing two neutral court appointed" doctors to evaluate Haynie. Tr. Vol. IV p. 128. Haynie's counsel did not object to the State's description of Haynie's alleged defense. The trial court issued an order appointing a psychologist and a

psychiatrist to evaluate Haynie, noting that it was appointing the doctors "[a]t the request of the State, and without objection from [Haynie]." Appellant's App. Vol. II p. 88.

[10] Prior to the start of trial, the trial court acknowledged that Haynie could allege that he had suffered from the effects of battery without alleging insanity. The trial court also acknowledged that the evidence presented could invoke an insanity defense, and if it did, then the trial would allow evidence relating to Haynie's alleged insanity. The trial court stated that it would wait to make a decision about whether it would call the court-appointed evaluators based on what evidence was introduced. Haynie's counsel agreed with the trial court's assessment saying, "I see it exactly that way." Tr. Vol. II p. 28. The trial court also explained that as it related to self-defense, expert testimony regarding the effects-of-battery defense would be extremely limited. Defense counsel again agreed with the trial court and said that it would "come down to what" Haynie said if he testified. Tr. Vol. II p. 31.

[11] Haynie testified at trial, setting forth facts which he believed supported his self-defense claim. Specifically, Haynie claimed to have been a "sex slave" to Sherwood and that he had been battered repeatedly. Tr. Vol. II 189. He further claimed that he had been experiencing the effects of battery and was acting in self-defense on the night of Sherwood's murder.

[12] Haynie described Sherwood as an aggressive man who "liked to choke people until they pass[ed] out." Tr. Vol. III p. 43. He asserted that Sherwood had "hit

[him] in the face" for allegedly not performing oral sex correctly. Tr. Vol. III p. 43. Haynie described Sherwood as a "very meticulous and neat person" who could become violent when angry. Haynie claimed that Sherwood had, on occasion, forced him to engage in sexual activity, while also claiming that he had previously been sexually assaulted by "some of [his] mom's boyfriends" and his stepfather. Tr. Vol. III p. 62. However, despite describing Sherwood as aggressive and violent, Haynie acknowledged that he had agreed to move in with Sherwood because Sherwood would give him money and "provide [him] with clothing items" and other items that he wanted. Tr. Vol. III p. 52. Haynie referred to Sherwood at trial as "a sugar daddy." Tr. Vol. III p. 54.

[13] Haynie further claimed that in the days before Sherwood's murder, Sherwood had punched and choked him. In describing the incident that had culminated in Sherwood's death, Haynie claimed to have awoken to Sherwood "standing over" him. Tr. Vol. III p. 68. Haynie stated that at some point, he and Sherwood had become involved in an altercation, during which Sherwood

> was yelling at me, smacking me around and then he pushed me against the refrigerator, and I sat down. And he was yelling at me some more. And then when I tried to stand up, he grabbed me and tried to bend me over the counter with his arm wrapped around my neck. And that's when I reached my right hand towards the drawer to just try to like grab something to slide out of the lock and it failed.

Tr. Vol. III p. 68. Haynie claimed that he had been scared and had believed that Sherwood was going to try to rape him, so he had "pulled two knives out

of [a] drawer" and stabbed him. Tr. Vol. III p. 70. Haynie stated that after he had stabbed Sherwood, the altercation moved back to the bedroom where he claimed to have seen Sherwood reaching for something. Haynie indicated that he had been afraid that Sherwood might be reaching for a gun, so he had panicked and had pushed Sherwood. Haynie further claimed that after Sherwood had fallen back on the bed, he had repeatedly stabbed him. Haynie acknowledged that he had told police after the incident that he had gone "ape sh[*]t," explaining that he had been "so frightened" that he had gone "crazy" and "outside of [his] mind." Tr. Vol. III p. 73.

[14] Dr. Robin Kohli also testified on Haynie's behalf, stating that, after evaluating Haynie, she had concluded that he had demonstrated an

> emergence of a borderline personality style which basically means that the person has trouble regulating their emotions and overacting in situations. He's also very vulnerable to separation, as you know very focused on other people's opinions about him. He tends to have dependent needs, personality means and there's also a lot of evidence of post[-]traumatic stress disorder[.]

Tr. Vol. III p. 134. Dr. Kohli found Haynie to be extremely suggestible. Haynie had reported suffering "a lot of trauma[,]" including "[s]exual abuse, physical abuse, domestic violence, abandonment or rejection, [and] homelessness," which led Dr. Kohli to conclude that the trauma that Haynie had allegedly suffered could have affected Haynie's behavior and perception. Tr. Vol. III pp. 151–52. However, Dr. Kohli also expressed "a lot" of concern about Haynie's reliability, noting that Haynie "seemed to misunderstand past

events." Tr. Vol. III p. 159. Dr. Kohli testified that she would not have been surprised if Haynie had made some things up and acknowledged that some of Haynie's responses might have indicated that he had been malingering or exaggerating. Dr. Kohli ultimately concluded that Haynie was "not mentally stable" and diagnosed him with "delusional disorder." Tr. Vol. III p. 173.

[15] Following the conclusion of Haynie's presentation of evidence, the trial court found that Haynie had introduced evidence sufficient to invoke an insanity defense. The trial court then called the two court-appointed evaluators, both of whom testified that Haynie did not suffer from a mental disease or defect that rendered him unable to appreciate the wrongfulness of his actions.

[16] At the conclusion of the presentation of evidence, the trial court instructed the jury on the effects-of-battery defense, outlining both the self-defense prong and the insanity prong. While seemingly acknowledging that some evidence in the record may relate to an insanity defense, the trial court instructed the jury that Haynie claimed to have acted in self-defense and, over Haynie's objection, that Haynie was "not asserting the defense of insanity." Appellant's App. Vol. II p. 156. The jury ultimately found Haynie guilty of murder, after which the trial court sentenced Haynie to a sixty-year term of incarceration.

Discussion and Decision

I. Overview of the Effects-of-Battery Defense

[17] Indiana Code section 35-41-3-11 permits a defendant to argue that he should not be held responsible for his otherwise criminal actions because "at the time

of the alleged crime, he was suffering from the effects of battery as a result of the past course of conduct by the individual who is the victim of the alleged crime." "'Effects of battery' refers to a psychological condition of an individual who has suffered repeated physical or sexual abuse inflicted by another individual who is the: (1) victim of an alleged crime …; and (2) abused individual's … cohabitant[.]" Ind. Code § 35-31.5-2-109. In arguing that his actions were excusable under the effects-of-battery defense, a defendant may argue either that he "(1) … was not responsible as a result of mental disease or defect under section 6 of this chapter,[3] rendering the defendant unable to appreciate the wrongfulness of the conduct at the time of the crime" or "(2) … used justifiable reasonable force under section 2 of this chapter."[4] Ind. Code § 35-41-3-11(b). If a defendant argues that he used justifiable reasonable force in committing the alleged act under subsection (2), he

> has the burden of going forward to produce evidence from which a trier of fact could find support for the reasonableness of the defendant's belief in the imminence of the use of unlawful force or, when deadly force is employed, the imminence of serious bodily injury to the defendant or a third person or the commission of a forcible felony.

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[3] Indiana Code section 35-41-3-6(a) provides that "[a] person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense."

[4] Indiana Code section 35-41-3-2(c) provides that "[a] person is justified in using reasonable force against any other person to protect the person … from what the person reasonably believes to be the imminent use of unlawful force." A person "is justified in using deadly force … if the person reasonably believes that that force is necessary to prevent serious bodily injury." Ind. Code § 35-41-3-2(c).

Ind. Code § 35-41-3-11(b)(2). In asserting an effects-of-battery defense, Haynie claimed that he "was justified in the use of any force in this matter and that any such force was justified pursuant to the Code[,]" invoking Indiana Code section 35-41-3-11(b)(2). Appellant's App. Vol. II p. 86.

II. Haynie Waived the Contention that He Was Denied the Right to Pursue His Chosen Defense

[18] Haynie contends that he was denied the right to pursue his chosen defense by the "wait and see" approach adopted by the trial court for the question of whether the court-appointed evaluators' testimony regarding his potential insanity defense would be admissible. For its part, the State argues that Haynie waived this contention by inviting the claimed error.

[19] "To preserve a claim for review, counsel must object to the trial court's ruling and state the reasons for that objection." *Durden v. State*, 99 N.E.3d 645, 651 (Ind. 2018).

> A party's failure to object to an alleged error at trial results in waiver, also known as procedural default or forfeiture. While there are certain exceptions to this rule, … it's designed to promote fairness by preventing a party from sitting idly by, ostensibly agreeing to a ruling only to cry foul when the court ultimately renders an adverse decision.
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> When the failure to object accompanies the party's affirmative requests of the court, it becomes a question of invited error. This doctrine—based on the legal principle of estoppel—forbids a party from taking advantage of an error that []he commits, invites, or which is the natural consequence of h[is] own neglect or misconduct.

Id. (internal quotations omitted).

> The invited-error doctrine generally precludes a party from obtaining appellate relief for his own errors, *even if those errors were fundamental*. A party invites an error if it was part of a deliberate, well-informed trial strategy. This means there must be evidence of counsel's strategic maneuvering at trial to establish invited error. Mere neglect or the failure to object, standing alone, is simply not enough. And when there is no evidence of counsel's strategic maneuvering, we are reluctant to find invited error.

Miller v. State, 188 N.E.3d 871, 874–75 (Ind. 2022) (cleaned up, emphasis added).

[20] Again, in Haynie's notice of intent to assert a defense pursuant to Indiana Code section 35-41-3-11(b)(2), he "affirmatively agree[d that] the State may cause [him] to be examined by an expert designated by the State." Appellant's App. Vol. II p. 85. During a status conference on February 18, 2022, the State informed the trial court that after speaking to Haynie's counsel, the State understood that Haynie was "essentially asking that he be allowed to raise the defense of mental disease or defect which would then trigger the court appointing two neutral court appointed" doctors to evaluate Haynie. Tr. Vol. IV p. 128. Haynie's counsel did not object to the State's description of Haynie's alleged defense. The trial court issued an order appointing a psychologist and a psychiatrist to evaluate Haynie, noting that it was appointing the doctors "[a]t the request of the State, and without objection from [Haynie]." Appellant's App. Vol. II p. 88. The record clearly establishes that after raising his defense under Indiana Code section 35-41-3-11(b)(2), Haynie did not object to a pre-

trial evaluation by an expert designated by the State or the court-appointed psychologist and psychiatrist.

[21] The record also indicates that prior to the beginning of trial, the trial court addressed the possible admission of the evaluators' testimony, stating the following:

> So my understanding is that we have … this effects of battery statute, which has two prongs, which is insanity caused by effects of battery, and then we have the other one which I'm going to call self-defense. Okay? And where the effects of battery cause someone - cause a state of insanity and they are unable to appreciate the seriousness of what they're doing, it actually looks exactly … like a normal insanity defense.… [T]he State has no right to the court-appointed experts on this second prong, only the first on insanity. So we have some experts that haven't really weighed in on this issue of is [Haynie] suffering from the effects of battery to the extent that it might have impacted his response or his - how he thought of any fear - did he think there was an imminent harm and those sorts of things.… But what's difficult about that is that … a Defendant could allege we're not claiming insanity. This is not insanity. This is just medical evidence as to self-defense, and we don't have to follow those other laws, those other rules, and we get to get in all of our experts.… [B]ut the evidence itself might lead itself to insanity. It's not what you plead and what you put on a piece of paper that defines whether or not it looks like insanity or not. It's how does the evidence come out.…
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> And I don't know how the evidence is going to come out. But if at the end of the day, [Haynie] testifies and it looks like an insanity defense, I believe, pleadings aside, pleadings will conform to the evidence, we'll be proceeding under an insanity defense with final jury instructions. If it doesn't go there in terms of the evidence and it's, no, this is a self-defense case, and this is

> what we believe happened, and then I think we go that other route. And it's possible that we don't even hear from … the Court's evaluators. I don't know. I don't know yet. I can't predict what's going to happen at trial.
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> But … [i]t is based on the evidence … [a]nd then even then, if you have an expert testify, they can't testify whether or not [Haynie's] response was reasonable or not. They only get to testify as to whether or not he was suffering from a psychological condition that might have impacted how he responded or how he perceived a threat. That's it.

Tr. Vol. II pp. 26–28. Defense counsel responded, "I see it exactly that way." Tr. Vol. II p. 28. When the trial court indicated that as it related to the self-defense prong of the effects-of-battery defense, Haynie's expert would be "extremely limited [in] what the expert can get into[,]" defense counsel stated that "[b]ased on what the Court said, which I actually agree with, it's kind of going to come down to what [Haynie] says." Tr. Vol. II pp. 29, 31.

[22] Defense counsel took the affirmative step of agreeing with the "wait and see" policy. As the State suggests, there are strategic reasons why counsel may have done so, including preserving another possible defense to argue to the jury depending on Haynie's testimony. By reserving the right to raise any defense supported by the record, Haynie placed the additional burden on the State of requiring the State to be prepared to rebut any possible defense supported by Haynie's evidence. The State argues that "Haynie invited any error in the trial court's chosen procedure to wait and see what the evidence was before determining if it was appropriate to pursue under an insanity theory."

Appellee's Br. p. 22. Based on the facts and circumstances before us, we agree. As such, Haynie has invited the claimed error and has waived his contention that he was denied the opportunity to pursue his preferred defense.

III. The Trial Court Did Not Abuse Its Discretion in Allowing the Court-Appointed Evaluators to Testify

[23] Haynie next contends that the trial court abused its discretion in allowing the court-appointed evaluators to testify. "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 842–43.

[24] Haynie argues that the trial court abused its discretion in admitting the evaluators' testimony because it was not relevant. "Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Ind. R. Evid. 401. "The 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." Evid. R. 403.

[25] In *Green v. State*, 65 N.E.3d 620 (Ind. Ct. App. 2016), *trans. denied*, we considered whether a defendant's evidence relating to her invocation of a

battered-women's-syndrome defense also invoked an insanity defense. We concluded that

> Where the defendant claims that battered women's syndrome has affected her ability to appreciate the wrongfulness of her conduct, she must proceed under the insanity defense. This includes any claim that is in the nature of suggesting that the defendant lacked the knowledge, intent, or subjective awareness necessary to commit the crime as a result of some abnormal mental condition or disease. Although Green contends that she did not intend to present Dr. Fischer's testimony to support a claim of insanity, meaning she was not asking the jury to find her not guilty by reason of insanity, she was offering the testimony to show that BWS affected her ability to appreciate the wrongfulness of her conduct[.]

Green, 65 N.E.3d at 632–33 (cleaned up).

[26] In this case, Haynie's and Dr. Kohli's testimony brought the question of Haynie's ability to appreciate the wrongfulness of his actions before the jury. Haynie acknowledged at trial that he had told police after the incident that he had gone "ape sh[*]t," explaining that he had been "so frightened" that he had gone "crazy" and "outside of [his] mind." Tr. Vol. III p. 73. He later claimed that he had "panicked" before stabbing Sherwood. Tr. Vol. III p. 95. The trial court noted Haynie's comments that he had "blacked out and went ape sh[*]t[,]" "was scared and … panicked[,] "was frightened and went crazy[,]" and "was outside of my mind" when determining that Haynie had presented evidence relating to an insanity claim under Indiana Code section 35-41-3-11(b)(1). Tr. Vol. IV p. 152. In addition, Dr. Kohli testified that Haynie was

"not mentally stable." Tr. Vol. III p. 173. Similar to the testimony in *Green*, we conclude that Haynie's and Dr. Kohli's testimony sufficiently invoked an insanity defense, thus necessitating the evaluators' testimony, both of whom testified that Haynie had been able to appreciate the wrongfulness of his actions when he killed Sherwood. Given that Haynie placed his mental state before the jury, we cannot say that the trial court abused its discretion in determining that the evaluators' testimony was relevant.

[27] Haynie further claims that the trial court abused its discretion in admitting the testimony of the evaluators because their testimony was prejudicial to him. The question, however, is not whether evidence is prejudicial to a defendant, but rather whether the unfair prejudice substantially outweighed the probative value of the evidence. *See* Evid. R. 403. While the challenged evidence may have been prejudicial to Haynie, we cannot say that it was unfairly prejudicial, much less in a way such that the prejudice substantially outweighed its probative value. Again, Haynie placed questions regarding his mental state before the jury, with his expert testifying that he was not mentally stable. The challenged evidence merely counters this opinion with both of the evaluators opining that Haynie had been able to appreciate the wrongfulness of his actions. The trial court did not abuse its discretion in admitting the challenged evidence.

IV. Overall the Trial Court Did Not Abuse Its Discretion in Instructing the Jury and Any Error in Instruction 11.0900 was Harmless

[28] Haynie also contends that the trial court abused its discretion in instructing the jury. "[T]he purpose of an instruction is to inform the jury of the law applicable to the facts without misleading the jury and to enable it to comprehend the case clearly and arrive at a just, fair, and correct verdict." *Buckner v. State*, 857 N.E.2d 1011, 1015 (Ind. Ct. App. 2006). "Jury instruction is left to the sound discretion of the trial court, and we review a trial court's instructional decisions only for an abuse of discretion." *Rochefort v. State*, 177 N.E.3d 113, 120 (Ind. Ct. App. 2021), *trans. denied*. Upon appeal, the reviewing court "considers: (1) whether the instruction correctly states the law; (2) whether there is evidence in the record to support the giving of the instruction; and (3) whether the substance of the tendered instruction is covered by other instructions which are given." *Hernandez v. State*, 45 N.E.3d 373, 376 (Ind. 2015) (internal quotation omitted). "Reversal arises only if the appellant demonstrates that the instruction error prejudices his substantial rights." *Id.* (internal quotation omitted). Furthermore, "[i]nstructions are to be read together as a whole and we will not reverse for an instructional error unless the instructions, as a whole, mislead the jury." *Buckner*, 857 N.E.2d at 1015.

[29] With regard to Haynie's effects-of-battery defense, the trial court instructed the jury as follows:

Court's Instruction 10.0300A

It is an issue whether the Defendant acted in self-defense.

A person may use reasonable force against another person to protect himself from what the Defendant reasonably believes to be the imminent use of unlawful force.

A person is justified in using deadly force, and does not have a duty to retreat, only if he reasonably believes that deadly force is necessary to prevent serious bodily injury to himself or to prevent the commission of a forcible felony.

However, a person may not use force if:

(a) he is committing a crime and there is an immediate causal connection between the crime and the confrontation;
(b) he is escaping after the commission of a crime and there is an immediate causal connection between the crime and the confrontation;
(c) he provokes a fight with another person with intent to cause bodily injury to that person; or
(d) he has willingly entered into a fight with another person or started the fight, unless he withdraws from the fight and communicates to the other person his intent to withdraw and the other person nevertheless continues or threatens to continue the fight.

The State has the burden of proving beyond a reasonable doubt that the Defendant did not act in self-defense.

Court's Instruction 10.0300H

In support of his self-defense claim, Defendant contends, at the time of the alleged crime, he was suffering from the effects of battery as a result of a past course of conduct by Marc Owen Sherwood.

In this regard, the Defendant has the burden of going forward to produce evidence from which you could find support for reasonableness of the Defendant's belief in the imminence of the use of unlawful force or, when deadly force is employed, imminence of serious bodily injury to the defendant or the commission of a forcible felony.

Court's Instruction 10.03001

The "effects of battery" refers to a psychological condition of an individual who has suffered repeated physical or sexual abuse inflicted by another individual who is the:

(1) victim of the alleged crime for which the abused individual is charged in a pending prosecution, and
(2) abused individual's cohabitant or former cohabitant.

Court's Instruction 11.0900

The defense of insanity is defined by law as follows:

A person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense.

"Mental disease or defect" means a severely abnormal mental condition that grossly and demonstrably impairs a person's perception, but the term does not include an abnormality manifested only by repeated unlawful or anti-social conduct.

Nike Haynie is not asserting the defense of insanity.

The State of Indiana is not claiming insanity.

The court-appointed experts do not believe the Defendant, as a

> result of a mental disease or defect, was unable to appreciate the wrongfulness of the conduct at the time of the offense.
>
> In other words, the parties stipulate that the Defendant was not legally insane at the time of the offense.
>
> When the parties stipulate and agree to certain facts, you should accept the facts as true.

Appellant's App. Vol. II pp. 154–56 (emphases in original).[5] Haynie argues that the trial court abused its discretion in giving Instruction 11.0900, claiming that it "compel[led] the jury to find that [he] was able to appreciate the wrongfulness of his conduct, pretty much spell[ing] the end of the 'Effects of Battery' defense." Appellant's Br. p. 32.

[30] We have no issue with the part of Instruction 11.0900 that outlines the definition of insanity and agree with the State that this portion of the instruction "clarified the difference between the insanity defense and the effects of battery self-defense claim that Haynie presented." Appellee's Br. p. 27. However, we are troubled by the portion of Instruction 11.0900 that indicates that the parties had stipulated to the facts that Haynie was not asserting an insanity defense and was not legally insane when he murdered Sherwood, as we find no clear stipulation to these facts in the record.[6] We are also troubled by the portion of Instruction 11.0900 that highlights the court-appointed evaluators' testimony,

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[5] The trial court's signature and the date are omitted after each instruction.

[6] While both Haynie and the State focused their arguments on the self-defense prong of the effects-of-battery defense, their focus did not amount to a stipulation.

which could be seen as vouching for their credibility. We conclude that the trial court erred in including the stipulation language and the potential vouching statement in Instruction 11.0900. We further conclude, however, that such error was harmless given the overwhelming evidence of guilt coupled with a reading of the trial court's instructions in total.

[31] Haynie admitted that he had stabbed Sherwood to death. While he argued that he had done so in self-defense, the State presented overwhelming evidence to the contrary. For instance, while Haynie claimed that the altercation had started in Sherwood's kitchen, the State presented evidence indicating that Sherwood had been lying in bed when the attack started. Again, Sherwood's feet had been covered when he was first stabbed, no other room beside the bedroom was disturbed in any manner, and Sherwood's injuries were so severe that it was very unlikely, if not impossible, that the altercation had occurred as described by Haynie.

[32] Furthermore, when read as a whole, the trial court's instructions set forth the two potential avenues through which a defendant may raise an effects-of-battery defense and clarify that although some of the evidence presented during trial related to a potential insanity defense, Haynie was asserting his effects-of-battery defense under the prong relating to self-defense. The trial court's instructions are consistent with counsel's closing arguments, during which both Haynie and the State confirmed that the parties had agreed that the focus of Haynie's effects-of-battery defense was self-defense, not insanity.

[33] Again, "the purpose of a jury instruction is to inform the jury of the law applicable to the facts without misleading the jury and to enable it to comprehend the case clearly and arrive at a just, fair, and correct verdict." *Campbell v. State*, 19 N.E.3d 271, 277 (Ind. 2014) (internal quotations omitted). Instructions are to be read together as a whole and we will not reverse for an instructional error unless the instructions, as a whole, prejudice the defendant's substantial rights by misleading the jury. *Hernandez*, 45 N.E.3d at 376; *Buckner*, 857 N.E.2d at 1015. Instruction 11.0900 contained different types of information: an accurate statement of the law regarding the definition of insanity and erroneous statements regarding stipulations and potentially vouching for the credibility of certain witnesses. We do not believe that the inclusion of the erroneous statements constituted reversible error, however, given the totality of the trial court's instruction read as a whole coupled with the fact that the physical evidence contradicted Haynie's version of the events to such an extent of proving his version of the events unlikely, if not impossible.

V. Haynie's Sentence is Not Inappropriate

[34] Haynie last contends that his sixty-year sentence is inappropriate.[7] Indiana Appellate Rule 7(B) provides that "[t]he 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

[7] Although Haynie lists the aggravating and mitigating factors found by the trial court at sentencing, he presents his argument as an appropriateness challenge and does not separately argue that the trial court abused its discretion in sentencing him.

and the character of the offender." In analyzing such claims, we "concentrate less on comparing the facts of [the case at issue] to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant's character." *Paul v. State*, 888 N.E.2d 818, 825 (Ind. Ct. App. 2008) (internal quotation omitted), *trans. denied*. The defendant bears the burden of persuading us that his sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).

[35] "A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years." Ind. Code § 35-50-2-3. Thus, in sentencing Haynie to a sixty-year sentence, the trial court imposed a moderately-aggravated sentence.

[36] The evidence demonstrated that Haynie had stabbed Sherwood over a dozen times. Further, despite Haynie's claim to the contrary, at the time of the attack, Sherwood appears to have been defenseless. Some of Sherwood's wounds penetrated the entirety of his body and many of his major organs in the chest cavity were hit, including his heart, which Haynie pierced three times. Haynie concedes that the evidence supported the trial court's determination that Haynie's attack on Sherwood was brutal. As the Indiana Supreme Court has noted, deference to a trial court's sentencing determination "should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of

brutality)." *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). Nothing about Haynie's crime portrays his actions in a positive light.

[37] In arguing that his sentence is inappropriate in light of his character, Haynie points to his allegedly-difficult childhood, including prior claimed instances of sexual assault; his alleged prior mental health issues; and that his friends had described him as a kind and caring individual. However, rather than a kind and caring individual, the record shows Haynie to be a violent and predatory individual.

[38] Haynie has demonstrated a history of violence against others, dating back to at least 2017, when he was reported to have approached someone unprovoked and "chok[ed] them out." Tr. Vol. IV p. 98. His violent behavior continued with Haynie being alleged to have committed acts of battery, drug possession, trespass, and theft. Haynie also demonstrated a pattern of engaging in other, nonviolent, disruptive behaviors. His disruptive and violent behavior continued even after his arrest in this case. In 2019, Haynie's disruptive behaviors included, *inter alia*, making sexually suggestive, inappropriate comments about himself and others; threatening fellow students; and displaying signs of aggression, including "flipp[ing people] off." Tr. Vol. IV p. 101. His behaviors continued after he had been incarcerated in connection to the instant matter, with jail records indicating that he had continued to make unsubstantiated allegations of sexual assault, had attempted to prostitute himself for commissary, and had been discovered in (at least joint) possession of contraband. Haynie's history of violent and disruptive behavior reflects poorly

on his character. *See Harlan v. State*, 971 N.E.2d 163, 170 (Ind. Ct. App. 2012) (providing that allegations of prior criminal activity need not be reduced to convictions before they may be properly considered at sentencing). Moreover, Haynie also has a juvenile adjudication for what would be resisting law enforcement if committed by an adult and a conviction for Class A misdemeanor conversion. "Even a minor criminal record reflects poorly on a defendant's character[.]" *Reis v. State*, 88 N.E.3d 1099, 1105 (Ind. Ct. App. 2017).

[39] Haynie was also determined to be a "high" risk to reoffend. Appellant's App. Vol. III p. 11. Haynie was born on September 14, 2002, making him eighteen years old at the time of Sherwood's murder. Needless to say, it does not speak well of Haynie's character that one of his first adult criminal acts was to commit a brutal murder. Haynie further demonstrated a disregard for the laws of the State of Indiana, self-reporting "a history of using/abusing alcohol, marijuana, Ecstasy/MDMA 'molly', and Klonopin." Appellant's App. Vol. III p. 5. Haynie has failed to convince us that his sixty-year sentence is inappropriate in light of the nature of his offense and his character. *See Sanchez*, 891 N.E.2d at 176.

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

Altice, C.J., and Felix, J., concur.

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