MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Germaine M. Cartwright, Sr.,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 12, 2024

Court of Appeals Case No.
23A-CR-2347

Appeal from the Vanderburgh Circuit Court

The Honorable Kelli E. Fink, Magistrate

Trial Court Cause No.
82C01-2205-F5-002586

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

Felix, Judge.

Statement of the Case

[1] Germaine Cartwright Sr. pushed, hit, and strangled his girlfriend Terra Meece in their home. Cartwright pled guilty to domestic battery committed in the presence of a child as a Level 6 felony. The trial court sentenced Cartwright to two years in the Indiana Department of Correction (the "DOC"). Cartwright presents one issue on appeal: Whether Cartwright's sentence is inappropriate under Indiana Appellate Rule 7(B).

[2] We affirm.

Facts and Procedural History

[3] In May 2022, Cartwright and Meece had been dating for ten years and lived together in Evansville, Indiana with four minor children, including Cartwright's grandson and Meece's daughter. On May 8, 2022, the grandson went into Cartwright's bedroom and asked Cartwright to get him a bowl of cereal. This request apparently enraged Cartwright; he left his bedroom and began arguing with Meece.

[4] During the argument, Cartwright grabbed Meece, pushed her into the bedroom, and threw her onto the bed. At the time, one of the minor children, the oldest daughter, watched this unfold but then left to take care of the younger children in the kitchen. In the kitchen, the children could hear the noises of Meece being

pushed around in the bedroom. Eventually, the oldest daughter decided to go back to the bedroom to help her mother.

[5] When she got to the bedroom, Cartwright had Meece pinned against the bed. After being confronted by the daughter, Cartwright physically threatened her. The threat scared the daughter, and she ran away. Cartwright then went back to assaulting Meece—he smacked her in the face, forced her onto the bed, placed his hands around her neck, and "told her he could kill her." Appellant's App. Vol. II at 22. Cartwright then left the bedroom, and Meece called law enforcement. When law enforcement officers arrived, they discovered Meece had red marks on her chest and neck as well as cuts along both arms. Law enforcement officers then arrested Cartwright.

[6] On May 10, 2022, the State charged Cartwright with domestic battery as a Level 5 felony, strangulation as a Level 5 felony, domestic battery in the presence of a child less than 16 years of age as a Level 6 felony, intimidation as a Level 6 felony, and criminal confinement as a Level 6 felony. The State also filed an information alleging Cartwright to be an habitual offender. On the day of the scheduled jury trial, Cartwright pled guilty to domestic battery in the presence of a child less than 16 years of age as a Level 6 felony, and the State dismissed the remaining charges. On September 5, 2023, the trial court sentenced Cartwright to two years in the DOC. Cartwright now appeals.

Discussion and Decision

[7] Cartwright asks us to revise his sentence pursuant to Indiana Appellate Rule 7(B). The Indiana Constitution authorizes us to independently review and revise a trial court's sentencing decision. *Faith v. State*, 131 N.E.3d 158, 159 (Ind. 2019) (citing Ind. Const. art. 7, §§ 4, 6; *McCain v. State*, 88 N.E.3d 1066, 1067 (Ind. 2018)). That authority is implemented through Appellate Rule 7(B), which permits us to revise a sentence 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." *Faith*, 131 N.E.3d at 159 (quoting Ind. Appellate Rule 7(B)).

[8] Our role under Appellate Rule 7(B) is to "leaven the outliers," *Faith*, 131 N.E.3d at 159–60 (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008)), and we reserve that authority for "exceptional cases," *Mullins v. State*, 148 N.E.3d 986, 987 (Ind. 2020) (quoting *Faith*, 131 N.E.3d at 160). Generally, we affirm a trial court's sentencing decision unless it is "overcome by compelling evidence portraying in a positive light the nature of the offense . . . and the defendant's character." *Stephenson v. State*, 29 N.E.3d 111, 111–12 (Ind. 2015). In conducting this analysis, "we are not limited to the mitigators and aggravators found by the trial court." *Brown v. State*, 10 N.E.3d 1, 4 (Ind. 2014).

[9] In looking at the nature of the offense, we start with the advisory sentence. *Brown*, 10 N.E.3d at 4 (citing *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007)). Cartwright was convicted of domestic battery committed in the

presence of a child as a Level 6 felony. For a Level 6 felony, a person "shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years." Ind. Code § 35-50-2-7(b). Here, the trial court sentenced Cartwright to two years in the DOC.

[10] Since the trial court deviated from the advisory sentence, we consider "whether there is anything more or less egregious about the offense committed by the defendant that makes it different from the 'typical' offense accounted for by the legislature when it set the advisory sentence." *T.A.D.W. v. State*, 51 N.E.3d 1205, 1211 (Ind. Ct. App. 2016) (quoting *Holloway v. State,* 950 N.E.2d 803, 806–07 (Ind. Ct. App. 2011)), *as amended* (May 26, 2023). We also consider whether the offense was "accompanied by restraint, regard, and lack of brutality." *Stephenson*, 29 N.E.3d at 122.

[11] Cartwright argues that there was "nothing particularly egregious about the offense," Appellant's Br. at 8, but the record shows otherwise. Cartwright went into a rage merely because his grandson asked him for a bowl of cereal. As a result, Cartwright began arguing with Meece, pushed her around the bedroom, and pinned her to the bed. When the daughter tried to help, Cartwright chose to physically intimidate her. Then, Cartwright turned his focus back to Meece, and he hit her in the face, forced her back onto the bed, placed his hands around her neck, and threatened to kill her. Appellant's App. Vol. II at 22. For no reason that is apparent in the record, Cartwright got extremely violent with Meece and intimidated a minor; thus, we are unpersuaded by Cartwright's claim that his offense was not particularly egregious.

[12] In considering the character of the offender, "we engage in a broad consideration of a defendant's qualities," *T.A.D.W.*, 51 N.E.3d at 1211 (citing *Aslinger v. State*, 2 N.E.3d 84, 95 (Ind. Ct. App. 2014), *clarified on other grounds on reh'g*), including whether the defendant has "substantial virtuous traits or persistent examples of good character," *Stephenson*, 29 N.E.3d at 122. Cartwright has multiple felony convictions. Most notably, Cartwright has prior convictions for domestic battery committed in the presence of a child and strangulation for an incident in which Meece was the victim. In addition, Cartwright has previous felony convictions for dealing in a controlled substance, possession of a controlled substance, and two convictions for dealing marijuana. Cartwright has also committed multiple probation violations, and he had probation revoked for the battery and strangulation against Meece. Cartwright also has numerous misdemeanor offenses on his record. Therefore, Cartwright has not demonstrated the requisite good character to warrant a revised sentence. *See Stephenson*, 29 N.E.3d at 122.

[13] Cartwright battered Meece in the presence of children and he has a history of violent and criminal behavior. Thus, we cannot say that Cartwright has produced compelling evidence demonstrating that the nature of his offense or his character renders his sentence inappropriate. *See Hayko v. State*, 211 N.E.3d 483, 487 n.1 (Ind. 2023), *reh'g denied* (Aug. 18, 2023).

[14] Affirmed.

Altice, C.J., and Bradford, J., concur.

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