



## STATEMENT OF THE CASE

Defendant-Appellant Lisa M. Palacio (“Palacio”) is appealing from her plea of guilty to the offenses of voluntary manslaughter and assisting a criminal. She received enhanced sentences of thirty-four years and six years respectively on the two counts, to be served consecutively for a total sentence of forty years.

We affirm.

## ISSUE

Palacio states the issue as whether the sentence imposed by the trial court was inappropriate in light of the character of the offender and the nature of the crime.

## FACTS

Palacio and Yolanda Patterson were at the home of Jeffery Harris. Owanda Jenkins, who was Palacio’s cousin, and Paul Jenkins knocked on the door. Jeffery Harris answered the knock. Paul Jenkins asked Harris why he was holding a shotgun. Harris replied that was the way he always answered the door. Harris and Paul Jenkins had a brief conversation. Harris then shot Paul Jenkins a couple of times with the shotgun in his hand, retrieved another gun and shot Paul Jenkins several more times. Paul Jenkins died.

Harris asked Palacio if she thought that Owana Jenkins would tell about the killing of Paul Jenkins. After some conversation, Harris told Palacio to kill Owana Jenkins. Palacio shot Owana Jenkins. Harris took the gun from Palacio and gave it to Yolanda Patterson, who also shot Owana Jenkins. Owana Jenkins died as a result of the shooting.

Several hours after the shooting, Palacio, Harris and Patterson wrapped the bodies of Paul and Owana Jenkins in blankets and placed them in the trunk of Harris' car. They drove around looking for a place to hide the bodies and eventually dumped them in a wooded area. Once they returned home, they attempted to clean the home of evidence and blood with a mop and bucket of water. They also took the couch that the victims were sitting on when they were shot and removed it from the house.

Additional facts will be added as needed.

### DISCUSSION AND DECISION

At sentencing the trial judge said:

“Miss Palacio, I assess your character as addictive and antisocial and extremely dysfunctional, as it relates to your upbringing and your life-style and your excessive and repeated drug use for over thirty years.

In mitigation, I find that you pled guilty and accepted responsibility to the charge of voluntary manslaughter, reduced from murder and assisting a criminal, reduced from murder and I find in further mitigation, your difficult childhood, whereby you received very little supervision. Your physical abuse that you received over the years due to your situation and upbringing, that you have been in drug rehabilitation at least four times and have been unable to shake the hold of drug addiction. In aggravation, I find that you have a forgery conviction that you received at a time that you were in the State of Indiana, going through drug rehabilitation. That forgery conviction resulted in a fewer year sentence for which you were paroled and were on parole at the time these crimes were committed. I also find in further aggravation, that you are in need of correctional and rehabilitative treatment that can best be provided by your commitment to a penal facility because of your prior criminal convictions. You were given a seven year sentence for forgery, got out, was on parole, continued to use drugs and this crime occurred thereafter. I also find in aggravation, that you committed multiple and separate crimes within a short period of time, after the killings of Owana Jenkins and Paul Jenkins. There was ample time to reflect before the disposing of the bodies of which you pled guilty to assisting a criminal in the disposing of the body of Paul Jenkins. I further find (sic) in need of correctional and rehabilitative treatment that prolonged incarceration will assist you in your future endeavors and past

attempts to remain drug free, which again, you have been unable to shake over – at least thirty years.

After considering the above factors, I find that the aggravating factors outweigh the mitigating factors.....”

Tr. 59-61.

Palacio’s statement of the issue tracks the language of Ind. Appellate Rule 7(B). We may revise a sentence if the sentence is inappropriate in light of the nature of the offense and the character of the offender.

Palacio’s argument is in two parts, the first being that the forgery conviction is too tenuous to the offenses to which Palacio pled guilty. The significance of a defendant’s criminal history varies based on the gravity, nature, and number of prior offenses as they relate to the current offense. *Field v. State*, 843 N.E.2d 1008, 1011 (Ind. Ct. App. 2006). However, a single aggravating factor may support the imposition of both an enhanced and consecutive sentence. *Id.* The State observes that a criminal record, in and of itself, is sufficient to support an enhanced sentence. *Parker v. State*, 773 N.E.2d 867, 872 (Ind. Ct. App. 2002).

The State goes further by noting that the instant offenses occurred while Palacio was on parole for her earlier forgery conviction and it goes to show her propensity to a continuing violation of the law. The trial court also noted as an aggravating factor that Palacio was on parole at the time of the murder. This aggravating factor is not challenged. An enhanced sentence may be upheld when a trial court improperly finds an aggravator, but other valid aggravators exist. *Solitz v. State*, 832 N.E.2d 1022, 1030 (Ind. Ct. App. 2005).

Palacio's other argument is that the court erred when it determined that voluntary manslaughter and assisting a criminal were two distinct and separate criminal acts. Palacio contends that it was one continuous act and should not have been used as an aggravating circumstance. Ind. Code §35-50-1-2(b) says that an episode of criminal conduct means offenses or a connected series of offenses that are closely related in time, place, and circumstances.

The State contends that the factual basis contained in the guilty plea shows that Palacio plead guilty to the voluntary manslaughter of Owana Jenkins and that she assisted a criminal in that she and Yolanda Patterson helped Jeffery Harris dispose of the body of Paul Jenkins, who had been shot and killed by Jeffery Harris.

In determining whether crimes amount to a single episode of criminal conduct, the issue is whether the alleged conduct was so closely related in time, place, and circumstances that a complete account of one charge cannot be related without referring to details of the other charge. *Jones v. State*, 807 N.E.2d 58, 68 (Ind. Ct. App. 2004). We agree with the State's position that reference to the Palacio's voluntary manslaughter of Owana Jenkins and the assisting in the disposal of the body of Paul Jenkins can be made without relating the details of one crime to the other. Palacio's act of killing Owana Jenkins was not simultaneous with the disposal of Paul Jenkins' body. Palacio assisted in the disposal of a body that was not the person she killed. Palacio's disposal of the body occurred several hours after she had killed Owana Jenkins. Palacio participated in the disposal of Owana Jenkins' body. However, that is not the crime to which she entered a plea of guilty.

CONCLUSION

Palacio was properly sentenced. Judgment affirmed.

ROBB, J., and BAILEY, J., concur.