

Case Summary

Michael Taylor appeals his sentences for Battery, as a Class D felony,¹ Strangulation, as a Class D felony,² and Resisting Law Enforcement, as a Class D felony.³ We affirm, but remand for the correction of a scrivener's error.

Issue

Taylor raises two issues on appeal, which we consolidate as whether his sentences are inappropriate.⁴

Facts and Procedural History

Members of the Indianapolis Metropolitan Police Department's ("IMPD") SWAT team responded to a disturbance at Taylor's apartment. As two boys were leaving a room, IMPD Officer James Gray tried to enter the room. Taylor fought with Officer Gray, strangled him, and took him to the ground. Other officers restrained Taylor.

Pursuant to a plea agreement, Taylor was convicted of Battery, Strangulation, and Resisting Law Enforcement. The trial court sentenced Taylor to a three-year term of imprisonment for each of the convictions, ordering that they be served concurrently. He now appeals.

Discussion and Decision

Taylor asks this Court to revise his sentences. Under Indiana Appellate Rule 7(B), this "Court may revise a sentence authorized by statute if, after due consideration of the trial

¹ Ind. Code § 35-42-2-1.

² Ind. Code § 35-42-2-9.

³ Ind. Code § 35-44-3-3.

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." See IND. CONST. art. VII, § 6. A defendant "must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.'" Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007) (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

The trial court found mitigating circumstances in the fact that "this offense was probably as a result of some alcohol abuse" and in Taylor's potential to be employed. Transcript at 28. It found Taylor's "substantial prior criminal history" and the children's presence to be aggravating circumstances. Id. at 29. The trial court noted that this was "the third time that [Taylor had] not accepted the authority of the police department," referring to his two prior convictions of Resisting Law Enforcement. Id. at 30. It found that the aggravating circumstances outweighed the mitigating circumstances and imposed for each conviction the maximum three-year term of imprisonment, to be served concurrently.

While children were present, Taylor fought with and strangled a law enforcement officer. He did so with two prior convictions of Resisting Law Enforcement and an extensive history of alcohol- and driving-related convictions. Based upon our review, we conclude that Taylor's sentences are not inappropriate.

⁴ Taylor asserts and the State acknowledges that the abstract of judgment should be revised on remand to reflect that the State dismissed count six, alleging Battery, as a Class A misdemeanor.

The judgment is affirmed, but we remand for the trial court to correct the scrivener's error referenced in footnote four.

NAJAM, J., and CRONE, J., concur.