

Case Summary

Robert J. Boswell (“Boswell”) appeals his thirty-year sentence for Voluntary Manslaughter, as a Class A felony,¹ presenting the sole issue of whether the sentence is inappropriate. We affirm.

Facts and Procedural History

On July 10, 2005, Bowell shot and killed his girlfriend, Barbara Carrico, after an argument regarding her decision to end the relationship. Boswell was initially charged with Murder but pled guilty to Voluntary Manslaughter. He received an advisory sentence, which he challenges pursuant to a belated appeal under Indiana Post-Conviction Rule 2.

Discussion and Decision

Upon conviction of a Class A felony, Boswell faced a sentencing range of twenty years to fifty years, with the advisory sentence being thirty years. See Ind. Code § 35-50-2-4. He asserts that his advisory sentence is inappropriate. However, his argument is addressed to the weight given to sentencing factors when he claims “minimal criminal history is not significant enough to detract from the weight of the mitigators reflecting favorably on [him].” Appellant’s Brief at 3. To the extent that he urges reweighing of mitigating or aggravating circumstances, the argument is unavailable to him. Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

“So long as the sentence is within the statutory range, it is subject to review only for abuse of discretion.” Id. at 490. This includes the finding of an aggravating circumstance

¹ Ind. Code § 35-42-1-3.

and the omission to find a proffered mitigating circumstance. Id. at 490-91. When imposing a sentence for a felony, the trial court must enter “a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence.” Id. at 491. The trial court’s reasons must be supported by the record and must not be improper as a matter of law. Id. However, a trial court’s sentencing order may no longer be challenged as reflecting an improper weighing of sentencing factors. Id.

Under Indiana Appellate Rule 7(B), this “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.” In performing our review, we assess “the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case.” Cardwell v. State, 895 N.E.2d 1219, 1224 (Ind. 2008). A defendant ““must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.”” Anglemyer, 868 N.E.2d at 494 (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)).

As for the nature of the offense, Boswell shot his girlfriend in the head after an argument. Sheriff’s deputies had been summoned earlier in the evening and left upon assurances that the situation was under control. However, instead of taking advantage of the opportunity to walk away during the period of calm, Boswell introduced a weapon into the scenario. As to the character of the offender, Boswell had some criminal history. He was sentenced for Theft as a Class A misdemeanor and had four other misdemeanor arrests, one

for Public Intoxication, two for Driving While Suspended, and one for Driving While Uninsured. Boswell's abuse of alcohol preceded the instant offense.

In sum, there is nothing in the nature of the offense or the character of the offender to persuade us that an advisory sentence is inappropriate.

Affirmed.

FRIEDLANDER, J., and BROWN, J., concur.