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IN THE
COURT OF APPEALS OF INDIANA

JEREMY KLAKAMP,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 73A01-1003-CR-189
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE SHELBY SUPERIOR COURT
The Honorable Jack A. Tandy, Judge
Cause No. 73D01-0903-MR-001

August 9, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Jeremy Klakamp appeals his conviction and sixty-five-year sentence for murder. We conclude that the trial court did not abuse its discretion by excluding testimony that the victim fought with another person earlier that night, the evidence is sufficient to rebut Klakamp's self-defense claim, the trial court did not abuse its discretion in sentencing, and Klakamp's sentence is not inappropriate. We therefore affirm his conviction and sentence.

Facts and Procedural History

On Saint Patrick's Day in March 2009, Ronnie Schroder was on a date and drinking with Betty Jo Thompson at Willie Farkle's, a bar in Shelbyville.

Klakamp was also at Willie Farkle's. Klakamp was hanging out with his twin cousins Josh and Jake Noel and Fred Monroe. Throughout the night, Ronnie stopped by their table multiple times and insisted he knew the Noels. Apparently, Ronnie also told Klakamp that he remembered him from school and called him "dumb" and "retarded." Tr. p. 1550. Ronnie also said he was an ultimate cage fighter.

Near closing time, Ronnie called a friend to find a place for him and Betty Jo to stay the night, but his friend already had someone staying with her. While Ronnie was on the phone, Betty Jo left without saying goodbye because she had found a ride and a place to stay. She was going to stay at Josh's house because they were friends and she often stayed at his house when she was drunk. Betty Jo went out the back door with Josh, Fred, Carl Stucky, and Klakamp, and everyone except Klakamp got into Carl's truck.

Klakamp was about to get in, but when a police car rounded the corner, he decided to return to the bar.

In the bar, Ronnie finished his call, looked around for Betty Jo, and then left on foot. Klakamp left when the bar closed. He was also on foot. At some point, Ronnie and Klakamp encountered one another on South Noble Street near Klakamp's sister's home, where Klakamp was living, and the home of neighbor Gloria Goode.

Gloria was awake and at her computer when she heard two people arguing outside. One person sounded louder and more aggressive while the other person was trying to calm him down. When Gloria looked out her window, it became quiet. She did not see anyone, so she sat back down. The arguing resumed. The louder voice was even louder, and she could barely hear the other voice. Gloria looked out her window again but still did not see anyone. The argument went on for a few minutes and then broke. When it resumed, Gloria recognized the louder voice as Klakamp's. She heard him scream, "[Y]ou better get a gun you son of a bitch cause I'm gonna fucking kill ya!" *Id.* at 519. Gloria did not hear the other person say anything in return. She then heard a thump or a bang and thought something hit the corner of her house.

Gloria figured that Klakamp was arguing with his sister's husband. She picked up her phone, opened her front door, stepped partway out, and made a noise, thinking that they would notice her and stop whatever they were doing. Klakamp turned around and made eye contact with Gloria. He was gripping a board raised over his head. He did not ask for help or say anything. He then continued quickly toward his sister's porch. Gloria, scared, went into her house and locked the door. About five minutes later she

heard Klakamp yelling for Roland Macklin, who lived across the street. She peeked out her window and saw Klakamp at Roland's door.

Roland was sleeping on his couch when he was awakened by Klakamp calling his name and knocking on his door and window. When Roland went to the door and let him in, Klakamp told him, "I think I killed a man." *Id.* at 576. Roland could see a slumped body on Klakamp's sister's porch. Roland called 911 and gave the phone to Klakamp when the dispatcher asked to speak with him. Klakamp told the dispatcher:

> [Klakamp]: Okay, well I'm gonna tell ya straight out. This dude came after me, and I'm trying to protect my sister and my home. And he started shit, and I hit him one time, I swear to god ah he's dead. I killed him.
> 911: What did you hit him with?
> [Klakamp]: Ah 4 x 4 post.
>
> * * * * *
>
> 911: Do you know who this guy is?
> [Klakamp]: No. He came up, he was drunk, started shit, you know what I mean? And I was like you know I was sitting on my front porch minding my own business and he thought he was being cool for a minute and the next thing I know he, he started in man and I fucking, I ain't there's no reason why I fucking drilled him. And when I did, there's blood everywhere. I think honest to god I think he's dead.

State's Ex. 5.

Officers from the Shelbyville Police Department, deputies from the Shelby County Sheriff's Department, troopers from the Indiana State Police, paramedics from the Shelbyville Fire Department, and Shelby County Coroner Tom Laughlin responded to the scene. Coroner Laughlin, Officer Jamie Kolls, and Lead Detective Bill Dwenger all stated that it was the most blood they had ever seen at a crime scene. The blood was pouring off the porch and splattered on the porch steps and sidewalk. Officer Kyle

Henderson checked Ronnie for vital signs and found no pulse. He noticed that Ronnie's head was flattened on two sides.

Klakamp approached Officer Henderson as other officers arrived. He was ordered to the ground. Klakamp yelled repeatedly, "I did it." Tr. p. 633. As Officer John Renbarger handcuffed him, he said, "[Y]ou don't have to handcuff me, I did this." Tr. p. 633. Because Klakamp claimed he had injuries to his right cheek, one of his hands, and left arm, Officer Renbarger took pictures of those areas. Officer Renbarger thought "there might have been a red mark on his hand" but did not see anything on his cheek or arm. *Id.* at 641. Although Klakamp had no bleeding injuries, he had blood on his hands, the bottoms of his pant legs, and his shoes. This led Officer Renbarger to conclude that the blows to Ronnie were delivered while he was low on the ground. Based on the blood observed on Klakamp, the police obtained a search warrant for Klakamp's person. The warrant also authorized the police to search Klakamp's sister's house.

Officers located two wooden posts near the body. Both had blood on them. The police photographed them as well as Ronnie's body and the blood spatters. The police interviewed neighbors Gloria and Roland and also spoke with Klakamp's sister, who had been asleep in her bedroom on the second floor of the locked house.

Before even touching the body, Coroner Laughlin could see a gross deformity to the left side of Ronnie's head. Based on the blood spatter on the porch and the porch post, Coroner Laughlin believed the trauma occurred where Ronnie was lying. Coroner Laughlin could not find any lacerations to the head but instead described it as a "gross crush." *Id.* at 769. Because Ronnie had injuries to the left side of the head and the back

right side of the head, Coroner Laughlin concluded that there were two separate areas of impact.

Officer Keith England read Klakamp his *Miranda* rights, and Klakamp indicated that he understood those rights. Klakamp told Officer England that he and Ronnie were on the sidewalk when Ronnie threatened to kill him. Klakamp said that he had a beer, and when Ronnie went to grab it, "I dropped him on the God Damn Fucking Walkway." *Id.* at 670. Klakamp then said that he had two beers and that there was a problem earlier between his sister and Ronnie.

Officer England was having difficulty following Klakamp's story, so he told him to start from the beginning. Klakamp said he was inside his sister's house when Ronnie knocked on the front door and asked what he was doing. Klakamp stepped out onto the front porch. While on the porch, Ronnie hit him on the right side of his face. Klakamp ran by the side of the house and grabbed a four-by-four post. Klakamp said Ronnie took the post away, and when he tried to grab the post back, Ronnie hit his left arm. Without explaining how he got the post back from Ronnie, Klakamp said, "I hit the Mother Fucker and the post is still over there," pointing to his sister's house. *Id.* at 675. Klakamp indicated that he hit Ronnie one time, although he could not remember whether it was in the front or back of his head. Deputy Larry Lacy was present during part of Officer England's interview with Klakamp and recorded those parts with his body microphone. Deputy Lacy heard Klakamp claim that Ronnie struck him, but he saw no injuries on Klakamp.

Officer England left Klakamp with Indiana State Police Trooper Dennis Scudder. While they were at the scene, Klakamp told Trooper Scudder two different versions of what had happened. In his first narrative, he said he met Ronnie at Willie Farkle's, and when Klakamp left the bar, Ronnie was drinking a beer and following him down the street. They retrieved some rum from Klakamp's sister's house and were drinking it, but at some point Klakamp became concerned about threats to his sister and himself. Klakamp said Ronnie struck him in several places, but Trooper Scudder saw no injuries or marks on him. Klakamp said he hit Ronnie in the head with a landscape timber. This version occurred on his sister's front porch. In a second narrative, Klakamp claimed that Ronnie pinned him down next to a traffic sign across the street from his sister's house. Trooper Scudder saw no scuff marks, no grass stains, and no abrasions on Klakamp consistent with a scuffle or having been pinned down.

Trooper Scudder transported Klakamp to the police department, where Klakamp told him two more versions of events. In his third narrative to Trooper Scudder, Klakamp said that he and Ronnie were buying each other drinks at Willie Farkle's. They left the bar together to have some rum at Klakamp's sister's house. At some point, Ronnie called Klakamp a "redneck punk," *id.* at 841, threw rum on him, and struck him in the face with the mug. Klakamp told Ronnie to get off his property or else he would "kick his ass." *Id.* at 835. Trooper Scudder saw no indication that a drink had been thrown on Klakamp or that he had been struck in the face with a mug. In his fourth and final narrative to Trooper Scudder, Klakamp said Ronnie told him "he was gonna bend him over and . . . fuck him right there." *Id.* at 837. This version occurred in the front

yard of his sister's house. Klakamp admitted that he struck Ronnie with the landscape timber but was adamant that he had struck him only once. Klakamp did not give any explanation as to how Ronnie ended up on the front porch.

Detective Dwenger conducted a recorded interview with Klakamp at the police department. Like Officer England and Trooper Scudder, he had difficulty following Klakamp's version of events. He noticed that Klakamp had no grass or dirt stains on the knees and elbows of his clothing indicating that he had been in a struggle. Although Klakamp again claimed to have been injured, Detective Dwenger documented only small abrasions on his left elbow and knees. Detective Dwenger did not believe the abrasions were particularly significant. *Id.* at 1205 ("[Dwenger]: They're only significant in the aspect that he's claiming that he was injured so I documented them. I've had defensive tactics and handcuffing class and had worse marks than that. [State]: And how would you receive a mark like that? [Dwenger]: Being taken to the ground to be handcuffed.").

The police collected swab samples from Klakamp's hands, which had blood and debris on them, and his clothing. These samples along with the two wooden posts were sent to the Indiana State Police Laboratory, where they were analyzed by forensic serologist Bryan Good and forensic DNA analyst Melanie Wagner. Good tested samples for the presence of blood. The samples taken from Klakamp's hands, jeans, shoes, and both wooden posts all tested positive for the presence of blood. The blood found on these samples was further tested by Wagner, who confirmed based on DNA that the blood was Ronnie's.

Fingernail scrapings were taken from Ronnie's fingers. None of Klakamp's DNA cells were located under the fingernails of Ronnie, which indicated to Detective Dwenger that Ronnie and Klakamp did not have the sort of physical struggle that Klakamp had described.

Ronnie's autopsy was performed by Dr. Thomas Sosio and supervised and reviewed by Dr. Michael Kenny. Dr. Sosio found that Ronnie received four and possibly five distinct blows to the head. Ronnie's skull was broken into pieces, and Dr. Sosio noted that it is not easy to crush a skull and it cannot happen by falling. He concluded that Ronnie was struck with a heavy, firm object at a high velocity and that his injuries were consistent with him being struck in the head while he was on the ground. Ronnie had at least four distinct defensive injuries to one of his wrists, left hand, and right arm, indicating that he was attempting to protect himself from attack, and also sustained injuries to his legs. Dr. Sosio concluded that Ronnie was struck with a total of eight blows. Dr. Kenny largely agreed with Dr. Sosio's findings. In slight contrast, he believed Ronnie's head was struck six separate times. He agreed, however, that at a minimum, Ronnie's head was struck four times. Dr. Sosio and Dr. Kenny both concluded that the cause of death was multiple blunt impacts to the head and that the manner of death was homicide.

Detective Dwenger has extensive training and experience in bloodstain pattern analysis. He digitally photographed and videotaped the crime scene and conducted a bloodstain pattern analysis. Because the majority of the blood was no higher than five inches from the surface of the porch, Klakamp's clothing had no blood higher than the

knee area, and Ronnie's clothing had a significant absence of blood, Detective Dwenger concluded that Ronnie was at or near the surface of the porch when he was struck. Given the distance the blood travelled from the source – twenty feet eight and a half inches – Klakamp used "a tremendous amount of force" in striking Ronnie. *Id.* at 1281. Detective Dwenger found that one of the wooden posts had blood on two sides and the other had blood on all four sides. He concluded that the post with blood on all four sides was used to strike Ronnie at least twice. He also concluded that Klakamp was behind and above Ronnie when he struck him.

Detective Dwenger's conclusions were peer-reviewed by Sergeant Dean Marks of the Indiana State Police, who also has extensive training and experience in bloodstain pattern analysis. Sergeant Marks concluded that Ronnie's head was on the surface of the porch when Klakamp delivered multiple blows.

The State charged Klakamp with murder, Class B felony aggravated battery, and Class C felony battery with a deadly weapon.

At trial, Klakamp called Chris Palmer to the stand. Palmer testified that he and some friends met Klakamp at Willie Farkle's on the evening of March 17, 2009. At some point, Palmer heard that someone had slapped his girlfriend's bottom, and he had an altercation with that person:

> Q Okay. Did you, I guess, describe the altercation for me.
> A It was, we just exchanged words. I thought he slapped, slapped her on purpose. He may not have. But I was told that we bought each other drinks and I don't think there was ever a fight involved, so.
> Q Do you remember hitting him?
> A No.
> Q Do you remember going outside and getting in a fight with somebody?

A I remember yankin' him out the back door and that's about it. And they said we came right back in and bought each other drinks so I don't think we got in a fight, so.
Q You yanked somebody out the back door?
A Yes, I did.
Q Don't remember getting in a fist fight out back?
A No.

Id. at 1581. On cross, the State asked Palmer if the man with whom he had had the altercation was Ronnie. Palmer was absolutely certain that the person was not Ronnie. On redirect, Klakamp attempted to ask Palmer whether it was true that several days later he told others that he was in a fight with Ronnie. The State objected, and the trial court sustained the objection. In an offer to prove, Klakamp said that two witnesses could testify that Palmer told them that he had been in a fight with Ronnie that night. The trial court continued to sustain the State's objection to such testimony. At closing, Klakamp argued self-defense.

The jury found Klakamp guilty as charged. At sentencing, the trial court merged the battery convictions into the murder conviction. The trial court found three aggravators: (1) the brutal nature of the offense, (2) Klakamp's criminal history, and (3) Klakamp's failure to understand the consequences of his behavior, which is enhanced by his abuse of substances. The court found Klakamp's mental health issues as a mitigator. The court found that the aggravators outweighed the mitigator and sentenced him to sixty-five years executed in the Indiana Department of Correction.

Klakamp now appeals.

Discussion and Decision

Klakamp contends that the trial court abused its discretion by excluding testimony that Palmer fought with Ronnie, the evidence is insufficient to rebut his claim of self-defense, the trial court abused its discretion in sentencing, and his sentence is inappropriate.

I. Exclusion of Evidence

Klakamp first contends that the trial court abused its discretion by excluding testimony that Palmer fought with Ronnie.

The admission or exclusion of evidence is within the sound discretion of the trial court, and we will not reverse such a decision absent a showing of an abuse of that discretion. *Brand v. State*, 766 N.E.2d 772, 778 (Ind. Ct. App. 2002), *reh'g denied*, *trans. denied*. All relevant evidence is admissible, except as otherwise provided by law. Ind. Evidence Rule 402. Evidence that is not relevant is inadmissible. *Id.* Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Ind. Evidence Rule 401.

When a defendant claims that he acted in self-defense, evidence of matters that would make his fear of the victim reasonable is admissible. *See Brand*, 766 N.E.2d at 780. The evidence introduced by a defendant to show his apprehension of the victim must imply a propensity for violence on the part of the victim. *Id.* Although the victim's threats or violence need not be directed toward the defendant, the defendant must have knowledge of these matters at the time of the fatal confrontation between the victim and the defendant. *Id.*

Klakamp argues that the trial court abused its discretion by excluding testimony that Palmer fought with Ronnie because such evidence would show Ronnie's propensity for violence and therefore make Klakamp's fear of Ronnie reasonable. However, there is no evidence, nor did Klakamp suggest in his offer to prove, that Klakamp had knowledge of the alleged fight between Palmer and Ronnie. Without such evidence, Klakamp cannot show that he reasonably feared Ronnie. Any testimony that Palmer fought with Ronnie is therefore irrelevant and inadmissible. The trial court did not abuse its discretion by excluding it.

II. Self-Defense

Klakamp next contends that the evidence is insufficient to rebut his claim of self-defense.

The standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of evidence claim. *Wilson v. State*, 770 N.E.2d 799, 801 (Ind. 2002). That is, we neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* If there is sufficient evidence of probative value to support the conclusion of the trier of fact, the verdict will not be disturbed. *Id.*

A valid claim of self-defense is legal justification for an otherwise criminal act. *Id.* at 800 (citing Ind. Code § 35-41-3-2(a)). To prevail on such a claim, the defendant must show that he: (1) was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. *Id.* When a claim of self-defense is raised and finds support in the

evidence, the State has the burden of negating at least one of the necessary elements. *Id.* If a defendant is convicted despite his claim of self-defense, we reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. *Id.* at 800-01.

The evidence most favorable to the verdicts shows that neighbor Gloria heard Klakamp and another person arguing outside her home. Despite the other person's attempts at calming him down, Klakamp sounded aggressive and grew increasingly louder. Gloria then heard Klakamp scream, "[Y]ou better get a gun you son of a bitch cause I'm gonna fucking kill ya!" When she stepped outside of her house, Klakamp made eye contact with her while gripping a board raised over his head. He did not ask for help or say anything before continuing quickly to his sister's porch. This evidence is sufficient to show that Klakamp provoked, instigated, and participated willingly in the violence and that Klakamp did not have a reasonable fear of death or great bodily harm.

Although this evidence is sufficient in itself to rebut Klakamp's self-defense claim, we nonetheless address his multiple disjointed versions of what occurred between him and Ronnie shortly before the murder. In each of these versions, Klakamp painted Ronnie as the initial aggressor. That is, according to Klakamp, Ronnie either (or in some combination): (1) threatened to kill Klakamp, (2) grabbed Klakamp's beer while they were on the sidewalk, (3) posed some sort of threat to Klakamp's sister, (4) hit Klakamp in the face when Klakamp answered the knock on the door, (5) struck Klakamp on the porch after they drank rum, (6) pinned Klakamp down next to a traffic sign across the

street from his sister's house, (7) called Klakamp a "redneck punk," threw rum on him, and struck him in the face with a mug, or (8) threatened to sodomize Klakamp.

Even if the jury believed any of these accounts, none presents a valid claim of self-defense. The amount of force used to protect oneself must be proportionate to the urgency of the situation. *Hollowell v. State*, 707 N.E.2d 1014, 1021 (Ind. Ct. App. 1999). Where a person uses more force than necessary to repel an attack, the right to self-defense is extinguished, and the ultimate result is that the victim becomes the perpetrator. *Id.*

Although Klakamp would have us believe that Ronnie threatened and injured him in such a way as to trigger his violent response, neither Officer Renbarger, Deputy Lacy, Trooper Scudder, or Detective Dwenger saw any significant injuries on Klakamp. At most, Klakamp received small abrasions that could have occurred when he was taken to the ground and handcuffed.

In contrast, Klakamp was standing above and behind Ronnie when he struck him in the head with a wooden post between four and six times with such "tremendous" force that he crushed his skull into pieces. Ronnie was down on the surface of the porch and attempted to defend himself with his arms. His blood was found splattered almost twenty-one feet away. Even if Ronnie was the initial aggressor, Klakamp's brutal response extinguished any claim of self-defense. *See Wilson*, 770 N.E.2d at 801 (self-defense claim extinguished where defendant continued shooting at victim after victim ceased fire and was leaving the area); *McKinney v. State*, 873 N.E.2d 630, 643 (Ind. Ct. App. 2007) (self-defense claim extinguished where victim approached pregnant woman

as if he was going to hit her but stopped, and defendant responded by putting victim in headlock, pushing gun against his temple, and shooting him), *trans. denied*; *Hollowell*, 707 N.E.2d at 1021 (self-defense claim extinguished where after victim punched defendant in the mouth and they wrestled each other, defendant stabbed victim in torso, swung at victim with knife while victim attempted to retreat, and stabbed victim's bottom as victim was running away).

Klakamp's argument is merely an invitation for us to reweigh the evidence, which we will not do. We conclude that there is sufficient evidence to rebut his claim of self-defense.

III. Sentencing

A. Abuse of Discretion

Klakamp also contends that the trial court abused its discretion in sentencing.

Sentencing decisions rest within the sound discretion of the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007). So long as the sentence is within the statutory range, it is subject to review only for an abuse of discretion. *Id.* An abuse of discretion will be found where the decision is clearly against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* We review the presence or absence of reasons justifying a sentence for an abuse of discretion, but we cannot review the relative weight given to these reasons. *Id.* at 491. When an allegation is made that the trial court failed to find a mitigating factor, the defendant is required to establish that the mitigating evidence is both significant and clearly supported by the

record. *Id.* at 493. However, a trial court is not obligated to accept a defendant's claim as to what constitutes a mitigating circumstance. *Rascoe v. State*, 736 N.E.2d 246, 249 (Ind. 2000). "If the trial court does not find the existence of a mitigating factor after it has been argued by counsel, the trial court is not obligated to explain why it has found that the factor does not exist." *Anglemyer*, 868 N.E.2d at 493 (quotation omitted).

Klakamp first argues that the court abused its discretion by failing to find his remorse as a mitigator. At the sentencing hearing, Klakamp asked the court to consider his statement in his presentence investigation report. That statement, listed as Klakamp's version of the offense, reads:

> I'm sorry for everything that's happened. I understand what I did was bad. I would like the Court to consider some kind of leniency. I felt in my heart that I had to protect my family and there was no time to call authorities when this offense happened. In my heart, I felt threatened because of the physical altercation that me and him got into and I felt that the actions that I had to take w[ere] appropriate, in my heart felt like it[']s what I needed to do at the time. Thank you sincerely for looking this over and taking this into consideration. I feel sick inside over everything, can't eat and feel very bad. Sincerely, Jeremy Klakamp.

PSI p. 8. Although Klakamp says that he is "sorry" and that he feels "very bad," he simultaneously maintains that his actions – smashing Ronnie's head in with a wooden post while Ronnie was on the ground and defending himself – were appropriate. The trial court did not abuse its discretion by failing to find remorse as a mitigator.

Klakamp argues that the court abused its discretion by instead finding his remorse as an aggravator. To support his argument, Klakamp directs us to the trial court's statement explaining the third aggravator:

> The third aggravating circumstance that I want to find, and I'm not sure how to label this frankly, but . . . I think it goes to your personality and your

> character and your mental health status. I . . . recognize your right to proceed [to] [t]rial. I recognize your right to maintain your innocen[c]e, even at this point. I recognize your right to assert self defense. However, I think the Pre-Sentence Report and the report by Dr. Vanderwater indicates that there's just a fundamental . . . lack of understanding on your part as . . . in terms of your behavior, the consequences of that behavior, your use of substances and how that . . . [ex]acerbates your . . . deficiencies in judgment and so forth, and I find that to be an aggravating circumstance in your case. I'd like to just reference Dr. Vanderwater's report . . . because I think this is a . . . a . . . kind of an excellent summary of your situation. "There are long term impairments [in] personality functioning marked by a pervasive pattern of disregard for and violation of the right[s] of others. More specifically, there is a history of unlawful, irresponsible, impulsive and aggressive behavior. These personality traits in combination with the intoxicating effects of alcohol are evident throughout his criminal history, most notably in the [instant] offense." So I think that what that's saying, kind of simple terms, that yes, you have some significant impairments in term[s] of your mental capacity and judgment, but those are enhanced by your abuse of substances, and I think that is an aggravating circumstance.

Tr. p. 1888-90. Upon review of this statement, we disagree with Klakamp that the court found his remorse as an aggravator. Instead, the court found his failure to understand the consequences of his behavior, which is enhanced by his abuse of substances, as an aggravator. This aggravator is supported by the record, both by Dr. Jeff Vanderwater-Piercy's psychological evaluation and the probation officer's statement in the presentence investigation report. After Klakamp's statement in the presentence investigation report, the probation officer noted:

> The defendant was asked if he could go back and redo the event, would he have done anything differently and stated that he would have done the same thing. He was asked to consider if drugs and alcohol influenced his actions and if he had not been using, did he think he would have done anything differently. He replied he would not.

PSI p. 8. The trial court did not abuse its discretion by finding this aggravator.

B. Inappropriate Sentence

Klakamp finally contends that his sentence is inappropriate.

Although a trial court may have acted within its lawful discretion in imposing a sentence, Article 7, Sections 4 and 6 of the Indiana Constitution authorize independent appellate review and revision of sentences through Indiana Appellate Rule 7(B), which provides that a 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." *Reid v. State*, 876 N.E.2d 1114, 1116 (Ind. 2007) (citing *Anglemyer*, 868 N.E.2d at 491). The defendant has the burden of persuading us that his sentence is inappropriate. *Id.* (citing *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)).

The statutory range for murder is between forty-five and sixty-five years, with the advisory sentence being fifty-five years. Ind. Code § 35-50-2-3. The trial court sentenced Klakamp to the maximum sentence of sixty-five years.

The nature of the offense alone justifies the maximum sentence imposed by the trial court. Klakamp brutally attacked Ronnie with a wooden post. He delivered up to six blows to Ronnie's head with such force that he crushed Ronnie's skull. Ronnie's head was on the ground when he was struck. Klakamp delivered other blows that struck Ronnie's wrist, hand, and arm as he tried to defend himself. Coroner Laughlin, Officer Kolls, and Detective Dwenger all stated that it was the most blood they had ever seen at a crime scene. Blood was pouring off the porch and splattered on the porch steps and sidewalk. Klakamp struck Ronnie with such tremendous force that blood was found splattered almost twenty-one feet away. This was a vicious attack.

Klakamp's character fares no better. We acknowledge that he has mental health issues, which was also recognized by the trial court. However, Klakamp, who was thirty years old at the time of sentencing, has accumulated several felony and misdemeanor convictions. His criminal history includes two felony convictions for burglary and misdemeanor convictions for intimidation, criminal conversion, criminal mischief, illegal consumption of alcohol, disorderly conduct, theft, domestic battery, operating a motor vehicle without ever receiving a license, and public intoxication. In addition, he has violated his probation multiple times. Klakamp also has a history of substance abuse. He has a pattern of heavy alcohol and marijuana use and has also used cocaine, methamphetamine, LSD, Xanax, and heroin. Klakamp's character displays a severe disregard of the law.

Klakamp has failed to persuade us that his maximum sixty-five-year sentence is inappropriate.

Affirmed.

KIRSCH, J., and MATHIAS, J., concur.