

IN THE
COURT OF APPEALS OF INDIANA

No. 25A-CR-2601

MYKAL JAMES ALAN GEROU,
Appellant-Defendant,

v.

STATE OF INDIANA,
Appellee-Plaintiff.

Appeal from the
Jefferson Superior Court,

No. 39D01-2406-F5-873,

The Honorable Blaine Goode,
Judge.

BRIEF OF APPELLEE

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STATEMENT OF THE ISSUES

I. Whether the State presented sufficient evidence that Gerou committed intimidation.

II. Whether Gerou's sentence is illegal.

III. Whether Gerou's sentence is inappropriate in light of the nature of the offense and his character.

STATEMENT OF THE CASE

On June 27, 2024, the State charged Defendant Mykal Gerou with Level 6 felony attempted obstruction of justice, Level 5 felony intimidation, and three counts of Level 6 felony intimidation (App. Vol. II 35–39). On July 24, 2025, the State amended its charging information to be four counts of Level 5 felony intimidation and one count of Level 6 felony intimidation (App. Vol. II 178–85).

A jury tried Defendant on August 19–20, 2025, and found him guilty of all counts (App. Vol. II 18–19). On September 16, 2025, the trial court conducted a sentencing hearing and sentenced Defendant to a total of 12 years in the Department of Correction with one of those years suspended: three years on Count I, four years on Count II, one year (suspended) on Count III, four years on Count IV, and a current four years on Count V (App. Vol. II 20). On October 16, 2025, Defendant filed his notice of appeal (Docket).

STATEMENT OF THE FACTS

A. The Department of Child Services opened a case on Defendant's child.

On April 27, 2024, the Department of Child Services “received a report of child neglect regarding [Defendant] and his partner Constance Mueller’s ... newborn child” (Tr. Vol. II 105). DCS family case manager Mary Buxton contacted Defendant the next day at a Jefferson County hospital (Tr. Vol. II 103–04, 106). Defendant was repeatedly entering and exiting the hospital floor where Mueller was; Buxton tried speaking with him, but he told her he would not speak to her without an attorney (Tr. Vol. II 106). There was increased security on the hospital floor “because of concerning behaviors or because there [was] a risk to those at the hospital needing the security to be present” (Tr. Vol. II 107–08). When Buxton returned the following day to tell Defendant that the DCS would be detaining his child, Defendant told her that it “wasn’t fair the security officer could carry his gun into the hospital, but that [Defendant] could not” (Tr. Vol. II 108). The DCS detained Defendant’s child (Tr. Vol. II 108–09).

B. Defendant threatened psychotherapist Stacy Cornett and the DCS.

Stacey Cornett is psychotherapist who worked with the DCS to conduct “specialty assessments to help parents” and is “very dedicated to helping parents to be able to successfully meet the needs of ... their children” (Tr. Vol. II 88–90). After the DCS opened a case on Defendant child, Defendant became one of Cornett’s clients (Tr. Vol. II 90, 108–09). They had several calls, in which Defendant was

“very agitated and argumentative,” “kept rambling and yelling,” and said that “he shouldn’t have to do any fucking assessment” (Tr. Vol. II 91).

Defendant met Cornett in Madison for an in-person appointment on June 3, 2024 (Tr. Vol. II 91–92). No one else was there (Tr. Vol. II 92). Defendant started “getting very escalated and agitated and talking all about how he’s been treated unfairly [and] kept representing Michigan as motherfuckers” (Tr. Vol. II 92).¹ His agitation made Cornett “very nervous” and “very scared” and put her “on high alert” (Tr. Vol. II 93). Defendant told Cornett that he had a concealed carry firearm and that “he had the right to use his second amendment” (Tr. Vol. II 93). Cornett then told him that, if he had a gun, he should take it to his vehicle (Tr. Vol. II 93–94). Defendant responded, “I don’t have to fucking do anything,” and began patting his hip and ranting that he had “the right to take this wherever [he] want[s],” that he had a “concealing carry” license, and that he had “the right to do whatever it takes to use [his] concealing carry to protect [his] child, children from kidnappers” (Tr. Vol. II 93–94). Cornett took his actions and words as confirmation that he had a gun on him (Tr. Vol. II 94). Defendant also told Cornett, “[Y]ou better not be like the fuckers in Michigan and you better give me a fair report ... or you will pay” (Tr. Vol. II 95, 102). By that point, Cornett felt “absolutely” threatened (Tr. Vol. II 95).

After the meeting, Cornett called her supervisor and told her that she “felt very threatened and told her that ... [she was] not coming back” to that office (Tr.

¹ Defendant had a prior foster care case in Michigan regarding his first child (App. Vol. III 88).

Vol. II 96). Because of her interaction with Defendant, Cornett stopped meeting with people in Madison, moved out of the state, and considered retiring early (Tr. Vol. II 96–98). As a result of Defendant’s threats to Cornett regarding herself and the DCS, the State charged Defendant with Count II: Level 5 felony intimidation of Cornett while using a deadly weapon and Count V: Level 5 felony intimidation to commit terrorism against the DCS (App. Vol. II 179–80).

C. Defendant threatened DCS family case manager Buxton.

Throughout the DCS case, Buxton would call Defendant to discuss reunification with his child (Tr. Vol. II 113–14). During those calls, Defendant would “fly off in a rage in the middle of a conversation, not be able to focus on one topic,” and it “proved to be impossible at times” to “reengage him and bring him back to the topic” (Tr. Vol. II 113–14).

At a June 20, 2024, meeting with DCS, Defendant told Buxton, “Mess with baby bear, you’re going to die” (Tr. Vol. II 114–15). During that meeting, Defendant temporarily left to attend to his dogs that he had left in his vehicle (Tr. Vol. II 117). When he returned to the meeting, he told Buxton that an “animal control officer had threatened to kick his ass, so then he threatened her with his gun” (Tr. Vol. II 117). That made Buxton think that Defendant was armed (Tr. Vol. II 117–18). And she took what Defendant had said in the meeting to be a threat to her and other DCS workers (Tr. Vol. II 115–16).

Because Defendant made threats to kill DCS workers involved in his case, the trial court continued a scheduled hearing in Defendant’s DCS case (Tr. Vol. II

120). Buxton had a “legitimate fear” that Defendant would try to hurt her or someone else at that hearing (Tr. Vol. II 121). Over the course of her 14 years working at the DCS, Buxton had never had anyone threaten her life like that before (Tr. Vol. II 122). As result of Defendant’s threats to Buxton, the State charged Defendant with Count IV: Level 5 felony intimidation to commit terrorism against Buxton, a DCS employee (App. Vol. II 179–80).

D. Defendant threatened animal control officer Janet Daugherty.

Janet Daugherty is the Madison animal control officer (Tr. Vol. II 126). On June 20, 2024, the day of Defendant’s meeting with the DCS, Daugherty and her partner responded to a welfare call to the DCS building; it was “90 plus” degrees outside, and there were “two dogs in the back of a truck that had a ... camper on it” (Tr. Vol. II 127). When they arrived, a “couple of people from the building ... were trying to give the dogs water through the side of the camper shell” (Tr. Vol. II 128). Daugherty took out one of the dogs and put him in her air-conditioned vehicle; but the other dog was caged and growled at her, so she hesitated to retrieve him (Tr. Vol. II 128).

Her partner brought Defendant out of the building (Tr. Vol. II 128). Defendant “started getting in [Daugherty’s] face, cussing [her] out, calling [her] all kinds of different names” (Tr. Vol. II 128). Daugherty then called him an idiot because she had previously dealt with him for the same issue and she was frustrated that he had repeated the same dangerous behavior (Tr. Vol. II 128–29). Defendant then told Daugherty he was going to “sick his dog on [her] to bite [her],

the one that was acting aggressive” (Tr. Vol. II 129). Daugherty believed him because the dog had growled at her (Tr. Vol. II 129). She was scared and thought that, had her partner not been there, Defendant would have hit her (Tr. Vol. II 130). As a result of Defendant’s threats to Daugherty, the State charged Defendant with Count III: Level 6 felony intimidation to commit a forcible felony (App. Vol. II 179–80).

E. Defendant made threats to his attorney about the DCS.

Alexa Bischoff is an attorney who was appointed to represent Defendant in in his child’s case (Tr. Vol. II 150–52). On June 24, 2024, she spoke with Defendant about his case (Tr. Vol. II 152). Defendant was “very upset, angry and [was] talking over [her]” (Tr. Vol. II 153). He said, “[I]f you take my child, I will kill you. If you come between me and my family, you will die. People are going to die. I will kill people ... I always have a gun” (Tr. Vol. II 153). He talked about “everybody involved” in his DCS case and told Bischoff that if Cornett testified in the way he expected her to, “she would pay for it” (Tr. Vol. II 154, 156–57). He also called women “bitches” and used the “F word a lot” (Tr. Vol. II 153–54).

Bischoff took Defendant’s threats seriously: he was “more than just ranting” (Tr. Vol. II 155, 159). As soon as the call ended, she consulted the rules of professional conduct (Tr. Vol. II 155–56, 161). She then called the sheriff’s department and the DCS attorney to report Defendant’s threats (Tr. Vol. II 155–56). As a result of Defendant’s threat to Bischoff regarding the DCS, the State charged

Defendant with Count I: Level 5 felony intimidation to commit terrorism (App. Vol. II 179–80).

On June 26, 2024, the DCS attorney called the Jefferson County Sheriff Department, complaining about Defendant’s threats (Tr. Vol. II 132–34, 144). Deputy Sheriff Gray contacted the victims and obtained an arrest warrant for Defendant (Tr. Vol. II 134–35). On June 28, officers executed the warrant (Tr. Vol. II 138, 144). When Defendant was arrested, he was wearing a holster on his hip and had a pistol and two loaded magazines in his vehicle (Tr. Vol. II 139). The gun matched the holster (Tr. Vol. II 139).

F. Defendant is convicted and sentenced.

The jury found defendant guilty of all five counts of intimidation (Tr. Vol. II 202–03). The trial court conducted a sentencing hearing (Tr. Vol. II 209). Defendant’s brother and grandmother testified that Defendant grew up without a supportive family, had a low IQ, and had brain trauma from accidents (Tr. Vol. II 210–15). Defendant did not testify or apologize (Tr. Vol. II 209).

Three of Defendant’s victims provided victim impact statements, stating how Defendant’s crimes had harmed them (Tr. Vol. II 217; State’s Sentencing Exs. 1–3). The State presented evidence that, in Defendant’s prior foster care case in Michigan, he possessed firearm, engaged in domestic violence, fought another person, and exhibited a “high level of aggression” (Tr. Vol. II 227–30; App. Vol. III 88). Defendant also had two prior convictions for a traffic offense and disturbing the peace (App. Vol. III 61).

The trial court found Defendant's legal history, the multiple victims and the harm to them, and Defendant's abusive language to be aggravators; it found his brain injuries to be a mitigator (Tr. Vol. II 244–48). It also found that Counts II and V were part of a single episode of criminal conduct because they occurred within minutes of each other (Tr. Vol. II 248–49). The trial court sentenced Defendant to a total sentence of 12 years in the DOC with one of those years suspended: three years on Count I, four years on Count II, one year (suspended) on Count III, four years on Count IV, and a concurrent four years on Count V (App. Vol. II 20).

SUMMARY OF THE ARGUMENT

I. There was sufficient evidence to support Defendant's convictions for intimidation. Defendant challenges four of his five intimidation convictions. Regarding Count I, Defendant alleges that he did not know his attorney would convey his threats to the DCS. But because of the serious nature of his threats and the fact that one of an attorney's responsibilities is to convey her client's wishes to the opposing parties, Defendant knew or should have known that his attorney would convey his threats to the DCS. Regarding Count II, Defendant alleges that he did not "use" a firearm while making the threat against his psychotherapist Cornett. But Defendant sufficiently "used" his firearm by claiming he had a concealed carry firearm and patting his hip where his gun was likely located. Regarding Count IV, Defendant alleges that his threat to family case manager Buxton was not "terroristic" because it was only directed toward one person, not the entire government. But because Buxton was a representative of the government

and he threatened her in the course of her work for the government, his threat was sufficiently “terroristic.” And regarding Count V, Defendant alleges that he did not know that the threats he made to the DCS during his meeting with Cornett would be conveyed to the DCS. But, for the same reasons as in Count I, Defendant knew or should have known that Cornett would include his threats in her report regarding Defendant’s mental health. Because sufficient evidence supported Defendant’s convictions, this Court should affirm.

II. Defendant’s sentence is not illegal. The trial court correctly found that Counts II and V were part of the same episode of criminal conduct because Defendant made the threats during the same meeting. But the trial court also correctly found that Counts I and IV were not part of the same episode of criminal conduct because they were made on different days to different people. Therefore, Defendant’s sentence does not exceed the statutory maximum sentence. This Court should find that his sentence is not illegal.

III. Defendant’s sentence is not inappropriate in light of the nature of his crimes and his abusive character. Regarding the nature of his crimes, Defendant made serious, repeated threats of violence to officials who were trying to help Defendant, Defendant’s child, and his dogs. Regarding his abusive character, Defendant has a history of criminal behavior and violence. Notably, he was involved in a prior child welfare case in Michigan where he engaged in similarly threatening behavior. In light of his egregious behavior and character, his low IQ and brain

trauma do not make his less-than-maximum sentence inappropriate. This Court should affirm his sentence.

ARGUMENT

I.

Sufficient evidence supported the four counts of intimidation that Defendant disputes.

Sufficient evidence supported Defendant's conviction for the four counts of intimidation that he disputes. A man commits Class A misdemeanor intimidation if he "communicates a threat with the intent ... that another person be placed in fear that the threat will be carried out." Ind. Code § 35-45-2-1(a)(4), (c) (2022).

Intimidation is a Level 5 felony if "while committing it, the person draws or uses a deadly weapon" or if the threat is "to commit terrorism." I.C. § 35-45-2-1(b)(2).

"Whether intimidation has occurred is a question of fact." *Ajabu v. State*, 677 N.E.2d 1035, 1041, 1043 (Ind. Ct. App. 1997). And a "defendant's intent may be proven by circumstantial evidence alone, and knowledge and intent may be inferred from the facts and circumstances of each case." *E.B. v. State*, 89 N.E.3d 1087, 1091 (Ind. Ct. App. 2017)

When reviewing a sufficiency claim, this Court may consider "only the probative evidence and reasonable inferences supporting the verdict." *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It does not "assess witness credibility [or] weigh the evidence to determine whether it is sufficient to support a conviction." *Id.* And the Court "will affirm the conviction unless no reasonable fact-finder could find

the elements of the crime proven beyond a reasonable doubt.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

Sufficient evidence supported Defendant’s conviction for Count I, the threat to commit terrorism against DCS employees, which Defendant communicated to his attorney, Alexa Bischoff. When speaking with his attorney, Defendant was “very upset, angry,” and told her that, “[i]f you take my child, I will kill you. If you come between me and my family, you will die. People are going to die. I will kill people ... I always have a gun” (Tr. Vol. II 153). He talked about everyone involved in his DCS case and said that Cornett testified in the way he expected her to, “she would pay for it” (Tr. Vol. II 154, 156–57).

Defendant claims he did not know his attorney would convey those threats to the DCS (Appellant’s Br. 17–19). But it “is well-established that a defendant need not speak directly with a victim to communicate a threat.” *E.B.*, 89 N.E.3d at 1091. One of the jobs of attorneys is to communicate their clients’ wishes and goals to opposing parties. And attorneys may “reveal information relating to the representation of a client” if necessary “to prevent reasonably certain death or substantial bodily harm.” Ind. Professional Conduct Rule 1.6. Defendant’s actions, thus, were distinguishable from the cases that Defendant cites where the defendants could not have reasonably foreseen that their threats would have been communicated to the threatened parties. *Cf. E.B. v. State*, 89 N.E.3d at 1092 (sister overhears brother talking on the phone about wanting to shooting the assistant principal); *J.T. v. State*, 718 N.E.2d 1119, 1124 (Ind. Ct. App. 1999) (student prints

threats to another student on a printer, and a librarian discovers it which leads to the person who was threatened eventually finding out). Instead, the jury could have reasonably inferred that Defendant, an adult, made his serious threats with the intent that his attorney would convey them to the DCS so that they would change their conduct or to warn them. *See B.B. v. State*, 141 N.E.3d 856, 862 (Ind. Ct. App. 2020) (holding that a fact finder could have concluded that a teenager who told his friend that he intended to shoot students at the high school “knew or should have known” that his friend would report the plan to other students at the school); *Newell v. State*, 7 N.E.3d 367, 370 (Ind. Ct. App. 2014) (holding that, when a tenant communicated a threat of violence against the property manager to the apartment’s security officer, the jury could have concluded that she knew her statement would be transmitted to the manager). Because Defendant knew or should have known that his attorney would convey his serious threats to the DCS, there was sufficient evidence to support the jury’s conclusion that Defendant committed Count I.

Sufficient evidence supported Defendant’s conviction for Count II, intimidation against Cornett, committed while using a deadly weapon. Defendant claims he did not “use” a firearm while making the threat to her (Appellant’s Br. 19–20). But his words and actions showed otherwise. During their meeting, Defendant was very agitated and told Cornett that he had a concealed carry firearm and that “he had the right to use his second amendment” (Tr. Vol. II 93). That put Cornett on “high alert,” and she told Defendant that if he had a gun, he should take it to his vehicle (Tr. Vol. II 93–94). Defendant said “I don’t have to fucking do

anything” and began patting his hip and ranting that he had “the right to take this wherever [he] want[s],” that he had a concealed carry license, and that he had “the right to do whatever it takes to use [his] concealing carry to protect [his] child, children from kidnappers” (Tr. Vol. II 93–94). Defendant did not merely possess a handgun. *See Cross v. State*, 15 N.E.3d 569, 573 (Ind. 2014) (quoting *Nicoson v. State*, 938 N.E.2d 660, 665 (Ind. 2010)). Rather, Defendant’s act of patting his hip and his statements about having a gun allowed the jury to infer that Defendant had a gun *and* was associating the use of that gun with his threat. *See Daniels v. State*, 957 N.E.2d 1025, 1030 (Ind. Ct. App. 2011) (holding that a defendant “used” a gun when he “deliberately lifted up his shirt to reveal ... that it was tucked into his waistband”). This Court should affirm Defendant’s conviction for Count II.

Sufficient evidence supported Defendant’s conviction for Count IV, the threat to commit terrorism against DCS case worker Mary Buxton. “Terrorism” is defined as “the unlawful use of force or violence or the unlawful threat of force or violence to ... intimidate or coerce ... a government.” Ind. Code § 35-31.5-2-329 (2019). At a June 20, 2024, meeting with DCS, Defendant told Buxton, “Mess with baby bear, you’re going to die” (Tr. Vol. II 115). Buxton took that to be a threat to her and the other DCS workers (Tr. Vol. II 115–16). And she was afraid that Defendant would try to hurt her or someone else at the then-upcoming hearing (Tr. Vol. II 121). Defendant claims that threat was not “terroristic” because it was only directed toward Buxton, not the entire government (Appellant’s Br. 20–21). But a man need not threaten the entire government to commit terrorism; indeed, government does

not exist corporeally except in its representatives. Buxton was a representative of the government, and Defendant's threat to her was directly related to her work as a government official. The jury reasonably inferred that Defendant made those threats to Buxton to coerce the DCS to provide him a favorable outcome in his child's case. "Terrorism" sufficiently covers that conduct. This Court should affirm Defendant's conviction for Count IV.

And sufficient evidence supported Defendant's conviction for Count V, the threat to commit terrorism against DCS employees which Defendant communicated to Cornett. Defendant claims he did not know that his threats to the DCS in his meeting with Cornett would be conveyed to the DCS (Appellant's Br. 21–22). But the logic is the same as in Count I. The purpose of Defendant's meeting with Cornett was for Cornett to write a report for Defendant's DCS case regarding his condition; Defendant knew or should have known that something as grave as his threats toward the DCS would be included in that report, either as evidence of his mental health status or as a warning to the people who were threatened (Tr. Vol. II 91–102). *See B.B. v. State*, 141 N.E.3d at 862; *E.B.*, 89 N.E.3d at 1091; *Newell v. State*, 7 N.E.3d at 370. This Court should affirm Defendant's conviction for Count V.

II.

Defendant's sentence is not illegal because Counts I and IV were not part of the same episode of criminal conduct.

Defendant's sentence is not inappropriate because Counts I and IV were not part of the same episode of criminal conduct. When a defendant is convicted of multiple, non-violent offenses arising from the same episode of criminal conduct,

there is a cap on the allowable consecutive sentence between those offenses. Ind. Code § 35-50-1-2 (2025). Where “the most serious crime for which the defendant is sentenced is a Level 5 felony,” as in this case, “the total of the consecutive terms of imprisonment may not exceed seven (7) years.” I.C. § 35-50-1-2(d)(5).

Crimes are part of a single “episode of criminal conduct” only if they “are closely related in time, place, and circumstance.” I.C. § 35-50-1-2(b). *See, e.g., Hall v. State*, No. 23A-CR-1248, *3 (Ind. Ct. App. Feb. 23, 2024) (mem.) (holding that a defendant’s convictions for two counts of intimidation were of a single episode of criminal conduct where they were committed “on the same night at the same location”). But the Indiana Supreme Court notes that repeated illegal conduct over time against the same person does necessarily mean the conduct is part of the same episode of criminal conduct. *See, e.g., Lane v. State*, 232 N.E.3d 119, 129 (Ind. 2024) (indicating that 10 letters from an incarcerated defendant to his ex-wife in violation of a no-contact order would likely not constitute a single episode of criminal conduct).

The trial court correctly found that Counts II and V were part of the same episode of criminal conduct but that Counts I and IV were not. Counts II and V occurred during Defendant’s interview with Cornett; while in the meeting, Defendant threatened both her and the DCS (App. Vol. II 91–102, 179–80). Because they were “closely related in time, place, and circumstance,” they were part of one episode of criminal conduct. I.C. § 35-50-1-2(b). But Counts I and IV were not. Although they both involved Defendant’s threats to the DCS, Defendant made them

to different people at different times (App. Vol. II 179–80). In Count I, Defendant threatened the DCS to his attorney Bischoff during an attorney-client meeting on June 24, 2024 (Tr. Vol. II 151–56). In Count IV, Defendant directly threatened DCS case worker Buxton on June 20, 2024 (Tr. Vol. II 113–22). Even though both threats involved harm to DCS workers, they were not “closely related in time, place, and circumstance”; therefore, the trial court correctly ruled that they were not part of a single episode of criminal conduct. *See, e.g., Lockhart v. State*, 671 N.E.2d 893, 904 (Ind. Ct. App. 1996) (holding that a defendant’s four molestations of the same child did not constitute a single criminal episode). This Court should find that Defendant’s sentence is not illegal.

III.
Defendant’s sentence is not inappropriate
in light of the nature of his offenses and his character.

Defendant’s sentence is not “inappropriate in light of the nature of the offense and the character of the offender.” Ind. Appellate Rule 7(B). This Court may independently review and revise a trial court’s sentencing decision if it finds “the sentence is inappropriate in light of the nature of the offense and the character of the offender.” *Id.* “This review is meant to leaven the outliers,” is “deferential to the trial court,” and is exercised “only in exceptional cases.” *Wilson v. State*, 221 N.E.3d 667, 679 (Ind. Ct. App. 2023). The “defendant has the burden of persuading [this Court] that his sentence is inappropriate.” *Mefford v. State*, 983 N.E.2d 232, 236 (Ind. Ct. App. 2013) (citing *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)), *trans. denied*.

Defendant received a less-than-maximum sentence. Defendant was convicted of four Level 5 felonies and one Level 6 felony (App. Vol. II 179–80; Tr. Vol. II 202–03). Level 5 felonies carry a sentencing range of one to six years and have an advisory sentence of three years. *See* Ind. Code § 35-50-2-6(b) (2014). Level 6 felonies carry a sentencing range of six months to two and a half years. *See* Ind. Code § 35-50-2-7(b) (2019). The trial court sentenced Defendant to three years in the DOC on Count I, four years in the DOC on Count II, one year in the DOC (suspended) on Count III, four years in the DOC on Count IV, and a concurrent sentence of four years in the DOC on Count V (App. Vol. II 20). This sentence is not inappropriate, even with his low IQ and brain trauma, in light of the nature of Defendant’s repeated, abusive conduct and his bad character.

Defendant’s 12-year sentence (where one of those years is suspended to probation) is not inappropriate in light of the nature of his offenses. Under the nature of the offense prong, the Court considers the “nature, extent, heinousness, and brutality of the offense.” *Wilson*, 221 N.E.3d at 679 (citing *Brown v. State*, 10 N.E.3d 1, 5 (Ind. 2014)). A defendant’s conduct is not compared with the conduct of other offenders, but “with the required showing to sustain a conviction under the charged offense.” *Anderson v. State*, 989 N.E.2d 823, 827 (Ind. Ct. App. 2013). Defendant threatened violence against government officials who were trying to help him and his child: DCS workers, his psychotherapist, his attorney, and an animal control officer. And he did so repeatedly. *See Lane*, 232 N.E.3d at 130 (holding that a defendant’s long sentence was not inappropriate when he repeatedly sent letters

to his ex-wife from prison in violation of a no-contact order). Defendant's threats caused his victims serious emotional damage; one of his victims, his psychotherapist, even stopped meeting with people in Madison, moved out of the state, and considered retiring early because of Defendant's threats to her (State's Sentencing Exs. 1–3; Tr. Vol. II 96–98). And the trial court canceled a court hearing because of Defendant's threats to kill DCS workers (Tr. Vol. II 120). In light of the extreme and repeated nature of his offenses against women trying to help him and his infant, Defendant's sentence is not inappropriate.

Nor is Defendant's sentence inappropriate in light of his bad character. Under this prong, the Court considers "the defendant's age, criminal history, background, past rehabilitative efforts, and remorse." *Wilson*, 221 N.E.3d at 680 (citing *Harris v. State*, 165 N.E.3d 91, 100 (Ind. 2021), and *McCain v. State*, 148 N.E.3d 977, 985 (Ind. 2020)). Defendant has a history of criminal activity and of abusive, violent behavior similar to what he exhibited in this case. He was involved in a prior foster care case in Michigan, where he possessed a firearm, engaged in domestic violence, fought another person, and exhibited a "high level of aggression" (Tr. Vol. II 227–30; App. Vol. III 88). And Defendant had two prior convictions for a traffic offense and disturbing the peace (App. Vol. III 61). *See, e.g., Mefford*, 983 N.E.2d at 237 (recognizing that a criminal history is aggravating in nature). He also did not apologize for his behavior (Tr. Vol. II 209). *See Lenoir v. State*, 267 N.E.3d 1113, 1121 (Ind. Ct. App. 2025) (noting that lack of remorse is a factor weighing against finding a sentence inappropriate). Although Defendant grew up without a

supportive family, has a low IQ, and has brain trauma from accidents, those do not make up for Defendant's history of egregious behavior (Tr. Vol. II 210–15).

Defendant has not shown the “substantial virtuous traits or persistent examples of good character” necessary to overcome the deference given to the trial court's sentencing decision. *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). Given the nature of his crimes, his multiple victims and the impact on them, and his poor character, his sentence is not inappropriate. *See O'Connell v. State*, 742 N.E.2d 943, 952 (Ind. 2001) (noting that “multiple crimes or victims constitutes a valid aggravating circumstance that a trial court may consider in imposing consecutive or enhanced sentences”).

CONCLUSION

This Court should affirm the trial court's judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 25, 2026, I electronically filed the foregoing using the Indiana Electronic Filing System (IEFS), and that on the same date the foregoing document was served upon the following person(s) via IEFS.

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