MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Maximilliono Christen Farias,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

January 28, 2025

Court of Appeals Case No.
24A-CR-1476

Appeal from the Lake Superior Court

The Honorable Gina L. Jones, Judge

Trial Court Cause No.
45G03-2205-MR-20

Memorandum Decision by Judge Tavitas
Judges May and DeBoer concur.

Tavitas, Judge.

Case Summary

[1] Following a jury trial, Maximilliono Farias was convicted of murder, a felony, and attempted murder, a Level 1 felony. The trial court sentenced Farias to an aggregate term of 100 years in the Department of Correction ("DOC"). Farias appeals and argues that: (1) the evidence is insufficient to support his convictions; and (2) his 100-year sentence is inappropriate. We disagree and, accordingly, affirm.

Issues

[2] Farias presents two issues, which we restate as:

I. Whether the State presented sufficient evidence to support Farias' convictions for murder and attempted murder.

II. Whether Farias' aggregate 100-year sentence is inappropriate in light of the nature of the offenses and Farias' character.

Facts

[3] Farias married Dezarae Farias in 2017. In the fall of 2021, Dezarae began an extramarital affair with Cameron Prince. The affair lasted five or six months. Dezarae told Farias about her relationship with Prince, and, for a while, lived periodically with Prince and then with Farias. Prince was upset that Dezarae still maintained a relationship with Farias, and in April 2022, Prince ended their relationship.

[4] On May 16, 2022, Prince and his best friend, John Garner, were living at the Red Roof Inn in Merrillville. That afternoon, Prince and Garner went to a nearby mall to go shopping. After the shopping trip, the two walked back to the hotel. At the same time, Farias was working as a tow truck driver and was driving a large, flat-bed tow truck. Dezarae was in the tow truck with Farias. Prince and Garner were walking through a parking lot on their way to the hotel when Prince heard the sound of Farias' truck approaching behind them. Prince tried to warn Garner but had too little time. Prince jumped out of the way of the truck, but Farias struck Garner from behind. Garner was thrown several feet from the site of the impact.

[5] At the time of the collision, Farias was traveling around thirty-three miles per hour, and he made no attempt to stop or warn Prince or Garner. Prince saw Farias driving the truck, which fled the scene. Prince called 911 and attempted to render first aid to Garner, who was bleeding profusely as a result of the impact. Emergency medical personnel soon arrived on the scene along with police officers. Garner was taken to the hospital, where he died as a result of multiple injuries caused by the collision.

[6] Law enforcement obtained surveillance video from a local business. The video showed Farias making several turns before turning the truck in the direction of Prince and Garner. Indeed, before striking Garner, Farias drove around a building, accelerated, and drove directly at Prince and Garner. After striking Garner, Farias briefly stopped, made a U-turn, and drove away as Prince attended to the fatally wounded Garner. *See* State's Ex. 15. Prince told law

enforcement that Farias was driving the truck, and the police began to search for Farias and the tow truck. When located by Indiana State Police troopers later that night, Farias initially denied being involved in any accident. Farias, however, eventually hung his head and stated, "I'm the one you're looking for." Tr. Vol. III p. 85.

[7] The State ultimately charged Farias with: (1) murder, a felony; (2) attempted murder, a Level 1 felony; and (3) leaving the scene of an accident resulting in death, a Level 4 felony. A jury trial was held from April 22 to April 25, 2024. The jury found Farias guilty as charged. On the State's motion, the trial court vacated the Level 4 felony conviction due to double jeopardy concerns. At a sentencing hearing held on May 30, 2024, the trial court sentenced Farias to sixty-three years for the murder conviction and thirty-seven years for the attempted murder conviction. The trial court ordered the sentences to be served consecutively, for an aggregate sentence of 100 years in the DOC. Farias now appeals.

Discussion and Decision

I. Sufficiency of the Evidence

[8] Farias argues that the State failed to prove that he possessed the requisite *mens rea* to support either his conviction for murder or attempted murder. Farias argues that the evidence instead shows that he merely acted recklessly.

A. Standard of Review

[9] Sufficiency of the evidence claims warrant a deferential standard of review in which we "neither reweigh the evidence nor judge witness credibility, instead reserving those matters to the province of the jury." *Hancz-Barron v. State*, 235 N.E.3d 1237, 1244 (Ind. 2024). A conviction is supported by sufficient evidence if "there is substantial evidence of probative value supporting each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt." *Id.* In conducting this review, we consider only the evidence that supports the jury's determination, not evidence that might undermine it. *Id.* We affirm the conviction "'unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.'" *Sutton v. State*, 167 N.E.3d 800, 801 (Ind. Ct. App. 2021) (quoting *Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007)).

B. The State presented sufficient evidence to prove that Farias intended to kill Prince, which supports his conviction for Garner's murder.

[10] Farias argues that the State failed to prove that he acted with the requisite *mens rea* for murder. To convict Farias of murder, the State was required to prove that Farias knowingly or intentionally killed Garner. *See* Ind. Code § 35-42-1-1(1). "A person engages in conduct 'intentionally' if, when he engages in the

conduct, it is his conscious objective to do so." Ind. Code § 35-41-2-2(a). "A person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." *Id*. § 2(b). "'Knowledge and intent are both mental states and, absent an admission by the defendant, the jury must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question.'" *Pritcher v. State*, 208 N.E.3d 656, 665-66 (Ind. Ct. App. 2023) (quoting *Stubbers v. State*, 190 N.E.3d 424, 432 (Ind. Ct. App. 2022)).

[11] The *mens rea* required for murder (knowingly or intentionally) may be inferred from the use of a deadly weapon in a manner likely to cause death or great bodily injury. *See Brown v. State*, 222 N.E.3d 362, 372 (Ind. Ct. App. 2023) (knowingly), *trans. denied*; *Fuentes v. State*, 10 N.E.3d 68, 75 (Ind. Ct. App. 2014) (intentionally), *trans. denied*. It is well settled that "[a]n automobile may be considered a 'deadly weapon' given appropriate circumstances." *DeWhitt v. State*, 829 N.E.2d 1055, 1064 (Ind. Ct. App. 2005) (citing *Johnson v. State*, 455 N.E.2d 932, 936 (Ind. 1983); *Solomon v. State*, 570 N.E.2d 1293, 1295 (Ind. Ct. App. 1991)).

[12] Farias notes that there was no evidence that he wanted Garner to die. But that was not required. "Under the doctrine of transferred intent, 'a defendant's intent to kill one person is transferred when, by mistake or inadvertence, the defendant kills a third person' and, despite his intent to kill another, 'the defendant may be found guilty of the murder of the person who was killed.'"

Powell v. State, 151 N.E.3d 256, 262 n.3 (Ind. 2020) (quoting *Blanche v. State*, 690 N.E.2d 709, 712 (Ind. 1998)). Thus, if Farias intended to kill Prince but instead killed Garner, he may still be convicted of murder for Garner's death.

[13] Here, the facts favoring the jury's verdict show that Farias drove a large tow truck at over thirty miles per hour directly at Prince, who had recently had an affair with Farias' wife. Farias made a turn before driving directly at Prince and Garner in broad daylight. An accident reconstruction expert testified that there was no sign that Farias attempted to slow down or brake before striking Garner. Nor did Farias attempt to warn Prince or Garner. The video clearly depicts Farias driving his truck directly at the men at a relatively high rate of speed for a parking lot; Prince managed to avoid the truck, but Garner unfortunately did not.

[14] From this evidence, the jury could reasonably conclude that Farias intended to kill Prince but instead killed Garner, which is sufficient to support Farias' conviction for Garner's murder. *See White v. State*, 638 N.E.2d 785, 785-86 (Ind. 1994) (affirming defendant's conviction for murder under the doctrine of transferred intent where defendant intended to kill two specific men but the shot he fired instead killed a third man that the defendant did not intend to kill).

C. The State presented sufficient evidence to prove that Farias specifically intended to kill Prince.

[15] Farias also argues that the State presented insufficient evidence to show that he specifically intended to kill Prince, which was required to support his conviction for the attempted murder of Prince.

[16] To prove that a defendant has attempted to commit a crime, the State must usually show that the defendant engaged in conduct that constitutes a substantial step toward the commission of the attempted crime, while acting with the same culpability required for that crime. Ind. Code § 35-41-5-1. "A person who knowingly or intentionally kills another human being . . . commits murder, a felony." I.C. § 35-42-1-1(1). Our Supreme Court, however, has emphasized the importance of requiring the "specific intent to kill" before a defendant can be convicted of attempted murder. *Miller v. State*, 77 N.E.3d 1196, 1197 n.1 (Ind. 2017) ("[A]ttempted murder is different in that it requires the State to prove 'the defendant's *specific intent to kill*.'") (quoting *Rosales v. State*, 23 N.E.3d 8, 12 (Ind. 2015) (emphasis added in *Miller*).

[17] Accordingly, to convict Farias of attempted murder, the State was required to prove that Farias, acting with the specific intent to kill Prince, took a substantial step toward killing Prince. *See Fry v. State*, 885 N.E.2d 742, 750 (Ind. Ct. App. 2008) (holding that, to convict defendant of attempted murder, the State was required to prove that he acted with the specific intent to kill the victim and took a substantial step toward killing the victim), *trans. denied*.

[18] The same evidence that supports Farias' conviction for Garner's murder via the doctrine of transferred intent also supports the jury's finding that Farias specifically intended to kill Prince. Farias made several turns before driving directly at Prince, he was traveling in excess of thirty miles per hour in a parking lot, and he made no effort to stop. Prince had also been involved in an extramarital affair with Farias' wife in the recent past. From this, the jury could reasonably conclude that Farias specifically intended to kill Prince when he drove a large tow truck straight at Prince, which constitutes a substantial step toward the crime of murder. Farias' arguments to the contrary are simply a request that we consider evidence that does not favor the jury's verdict, which we may not do on appeal.

II. Farias' Sentence is Not Inappropriate

[19] Farias also argues that his aggregate 100-year sentence is inappropriate in light of the nature of his offenses and his character. We recently summarized our standard of review on such claims as follows:

> The Indiana Constitution authorizes independent appellate review and revision of a trial court's sentencing decision. Our Supreme Court has implemented this authority through Indiana Appellate Rule 7(B), which allows this Court to revise a sentence when it is "inappropriate in light of the nature of the offense and the character of the offender." Our review of a sentence under Appellate Rule 7(B) is not an act of second guessing the trial court's sentence; rather, [o]ur posture on appeal is [] deferential to the trial court. We exercise our authority under Appellate Rule 7(B) only in exceptional cases, and its exercise boils down to our collective sense of what is appropriate.

> The principal role of appellate review is to attempt to leaven the outliers. The point is not to achieve a perceived correct sentence. Whether a sentence should be deemed inappropriate turns on our sense of 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. Deference to the trial court's sentence should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as [being] accompanied by restraint, regard, and lack of brutality) and the defendant's character (such as substantial virtuous traits or persistent examples of good character).

Dean v. State, 222 N.E.3d 976, 989-90 (Ind. Ct. App. 2023) (citations and internal quotations omitted), *trans. denied*.

[20] Review under Appellate Rule 7(B) is holistic. *Lane v. State*, 232 N.E.3d 119, 127 (Ind. 2024) (citing *Connor v. State*, 58 N.E.3d 215, 219 (Ind. Ct. App. 2016)). That is, "[w]e assess a sentence in light of the whole picture before us." *Id*. "Allowing a strong showing on one prong to outweigh a weak showing on the other promotes the ideal of 'similar sentences' for 'perpetrators committing the same acts who have the same backgrounds.'" *Id*. (quoting *Serino v. State*, 798 N.E.2d 852, 854 (Ind. 2003)). Thus, "to the extent the evidence on one prong militates against relief, a claim based on the other prong must be all the stronger to justify relief." *Id*. (citing *Connor*, 58 N.E.3d at 220).

[21] Here, Farias was convicted of murder and attempted murder. The sentencing range for murder is forty-five to sixty-five years, with an advisory sentence of fifty-five years. Ind. Code § 35-50-2-3(a). The sentencing range for attempted murder, which is a Level 1 felony, is twenty to forty years, with an advisory

sentence of thirty years. Ind. Code § 35-50-2-4(b). The trial court sentenced Farias to sixty-three years on the murder conviction, which is above the advisory but below the maximum sentence. And the trial court sentenced Farias to thirty-seven years on the attempted murder conviction, which again is above the advisory but below the maximum sentence. The trial court also ordered the sentences to be served consecutively because there were two victims. *See* Ind. Code § 35-50-1-2(c) (providing that, for crimes of violence, the trial court "shall determine whether terms of imprisonment shall be served concurrently or consecutively" and that, when making this determination, the trial court may consider aggravating and mitigating circumstances); *see also Mefford v. State*, 983 N.E.2d 232, 238 (Ind. Ct. App. 2013) (noting that multiple victims supports a trial court's decision to run sentences consecutively) (citing *O'Connell v. State*, 742 N.E.2d 943, 952 (Ind. 2001)), *trans. denied*.

A. Nature of the Offense

[22] "Our analysis of the 'nature of the offense' requires us to look at the nature, extent, heinousness, and brutality of the offense." *Dean*, 222 N.E.3d at 990 (quoting *Brown v. State*, 10 N.E.3d 1, 5 (Ind. 2014)). We should defer to the trial court's sentencing unless the defendant presents compelling evidence portraying the nature of his offense in a positive light. *Id*.

[23] Here, Farias made several turns in the parking lot and around buildings before striking Garner with the tow truck. Not only does this suggest that Farias planned his crime but also that he had ample time to reconsider his actions. Yet he still chose to drive a large, flat-bed tow truck directly at his victims in

daylight. He also drove the truck at a high speed for a parking lot, showing a disregard for the safety of others. And immediately after Farias brutally struck and killed Garner, Farias fled the scene instead of rendering aid or calling for help. Farias was apparently motivated by his jealousy of Prince, who had engaged in an extramarital affair with Farias' wife. Garner's injuries were severe, and Prince, the intended victim, watched as his best friend bled profusely as a result of his injuries. We discern no compelling evidence that portrays Farias' offenses in a positive light, such as restraint, regard, or lack of brutality.

B. Character of the Offender

[24] Our analysis of the character of the offender involves a broad consideration of a defendant's qualities, including the defendant's age, criminal history, background, past rehabilitative efforts, and remorse. *Id*. The significance of a defendant's criminal history in assessing his character varies based on the gravity, nature, proximity, and number of prior offenses in relation to the current offense. *Id.*

[25] Here, Farias has a relatively minor criminal history, which still reflects poorly on his character. *See id*. (citing *Prince v. State*, 148 N.E.3d 1171, 1174 (Ind. Ct. App. 2020)). Farias had one juvenile adjudication for alcohol possession by a minor. As an adult, Farias was convicted in 2013 of criminal recklessness with a deadly weapon, a Class D felony. And in 2018, he was convicted of delivery of a narcotic drug, a Level 5 felony. Farias violated his probation in that case and was still on probation in that case at the time he committed the instant

offenses. Farias also received multiple disciplinary reports while in jail for refusing to obey the orders of staff and refusing to follow the rules of the jail. None of this reflects well on Farias' character.

[26] Farias claims that his sentence should be revised due to his mental health issues. Farias was evaluated for competency before trial, and the report of one of the court-appointed psychiatrists noted that Farias stated he had been diagnosed with bipolar disorder, depression, and schizophrenia. Farias also claimed to have twice undergone inpatient psychiatric treatment as a teenager and to have received outpatient mental health treatment from various providers from the ages of fourteen through thirty. Farias' mother testified at the sentencing hearing that Farias received disability benefits due to his mental health issues. And the presentence investigation report noted Farias' history of mental health issues. Both court-appointed psychiatrists determined that Farias was competent to stand trial, and one noted that, although Farias suffered from a serious mental illness, his "reasoning, impulse control, judgment, and insight were all in the fair to good range." Appellant's App. Vol. II p. 25.

[27] We have no doubt that Farias has mental health issues. He does not, however, connect his mental health issues with his behavior here or his general character. *See Helsley v. State*, 43 N.E.3d 225, 229 (Ind. 2015) (rejecting defendant's claim that his mental health problems required revision of his sentence because the defendant did not "connect his mental illnesses to either his character or the

nature of the offense.").[1] Accordingly, we cannot say that Farias' history of mental health problems reflects so well on his character as to render his sentence inappropriate. *See id*.

[28] Farias also briefly notes that he cared for his ailing mother, had a good relationship with his children, and was employed. We have noted before, however, that "most people are gainfully employed, and this does not weigh in favor of a lesser sentence." *Pritcher v. State*, 208 N.E.3d 656, 669 (Ind. Ct. App. 2023) (citing *Hale v. State*, 128 N.E.3d 456, 465 (Ind. Ct. App. 2019)). And Farias' care of his mother and relationship with his children, while admirable, do not necessarily require that we find his sentence to be inappropriate. *Cf. Zavala v. State*, 138 N.E.3d 291, 302 (Ind. Ct. App. 2019) (holding that hardship to dependents is not a mitigating factor absent circumstances showing an undue hardship) (citing *Benefield v. State*, 904 N.E.2d 239, 247 (Ind. Ct. App. 2009)), *trans. denied*.

Conclusion

[29] The State presented sufficient evidence that Farias intended to kill Prince. Via the doctrine of transferred intent, this *mens rea* is sufficient to support Farias' conviction for the murder of Garner. It is also sufficient to support Farias' conviction for the attempted murder of Prince. Lastly, Farias' aggregate

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[1] Farias' citation to *Reid v. State*, 876 N.E.2d 1114 (Ind. 2007), is unavailing. The defendant in that case was sentenced to the statutory maximum, and his mental illness made him an "easy target" for the plans of his co-conspirators. *Id*. at 1117. Here, Farias was not sentenced to the statutory maximum, and his mental illness appears to have played little role in his crimes.

sentence of 100 years is not inappropriate in light of the nature of Farias' offenses and his character. We, therefore, affirm the trial court's judgment.

[30] Affirmed.

May, J., and DeBoer, J., concur.

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