

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Karen A. Sons,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

April 30, 2024
Court of Appeals Case No.
23A-CR-2299
Appeal from the Porter Superior Court
The Honorable Michael A. Fish, Judge
Trial Court Cause No.
64D01-1712-MR-11468

Memorandum Decision by Judge Felix
Chief Judge Altice and Judge Bradford concur.

Felix, Judge.

Statement of the Case

[1] Karen Sons shot and killed her boyfriend, Robert Head. Sons confessed to police two days later. She was convicted of murder and an enhancement for using a firearm in the commission of the offense. The trial court sentenced Sons to 65 years in the Indiana Department of Correction. Sons appeals, arguing that her sentence is inappropriate under Indiana Appellate Rule 7(B).

[2] We affirm.

Facts and Procedural History

[3] In December 2017, Sons and Robert had been dating for approximately seven years and lived together in Hebron, Indiana. At the time, Robert was in poor health because he was battling gall bladder cancer. Since being diagnosed with cancer in 2016, Robert had lost a lot of weight, struggled to walk, and became very fragile. Sons served as Robert's primary caregiver through his struggle with cancer, but she had also become extremely controlling of his entire life. Sons was the payee of Robert's Social Security checks, so she controlled all his finances, and Robert's family would have to go through Sons to have any communication with him.

[4] Sons and Robert argued constantly throughout their relationship. Often, these arguments would lead to the couple yelling, cussing, and threatening each other. On December 8, 2017, Sons and Robert got into an argument at their

home, and Sons shot Robert in the back of the head with a .22 caliber rifle.

Robert died from the gunshot.

[5] The next day, Sons called Cindy Cernia, her sister, and was acting very upset. Cernia told Sons to come over that day so they could talk about whatever was making her upset, but Sons said that she could not come over because she had issues with her car. However, that evening, Sons drove to her ex-boyfriend's house where she stayed the night. The following afternoon on December 10, 2017, Sons drove to Cernia's house and revealed that she had killed Robert. Cernia convinced Sons to confess and drove her to the police department.

[6] At the police department, Sons fabricated a story about her shooting Robert. Sons told detectives that, during an argument, Robert pointed a gun at her face, so she reacted and fired the rifle. However, the investigation revealed facts that did not support this story. Police officers found multiple firearms near Robert's body, but none had Robert's fingerprints on them. Further, forensic evidence later revealed that Robert had been shot with the rifle from behind.

[7] At the murder scene, law enforcement officers found blood stains leading from the living room to the bedroom where Robert's body was discovered. Robert's body had been placed on a shower curtain, covered with a blanket, "was cold to the touch[,] and was already smelling." Tr. Vol. III at 198. Officers also found blood-stained socks, blood-stained washcloths, and a blood-stained towel in the kitchen trashcan.

[8] On December 12, 2017, the State charged Sons with murder.¹ On April 1, 2021, the State filed an amended information to add an enhancement for committing the offense with a firearm.² On August 21, 2023, a jury found Sons guilty as charged. The trial court sentenced Sons to 55 years for murder and imposed an additional 10-year sentence enhancement for committing the offense with a firearm. Sons now appeals.

Discussion and Decision

[9] Sons argues her sentence is inappropriate under Indiana Appellate Rule 7(B). The Indiana Constitution authorizes us to independently review and revise a trial court's sentencing decision. *Faith v. State*, 131 N.E.3d 158, 159 (Ind. 2019) (citing Ind. Const. art. 7, §§ 4, 6; *McCain v. State*, 88 N.E.3d 1066, 1067 (Ind. 2018)). That authority is implemented through Indiana Appellate Rule 7(B), which permits us to revise a sentence if, after due consideration of the trial court's decision, we find that the sentence is "inappropriate in light of the nature of the offense and the character of the offender." *Faith*, 131 N.E.3d at 159 (quoting App. R. 7(B)).

[10] Our role under Appellate Rule 7(B) is to "leaven the outliers," *Faith*, 131 N.E.3d at 159–60 (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008)), and we reserve that authority for "exceptional cases," *Mullins v. State*,

¹ Ind. Code § 35-42-1-1.

² *Id.* § 35-50-2-11(b).

148 N.E.3d 986, 987 (Ind. 2020) (quoting *Faith*, 131 N.E.3d at 160). When gauging inappropriateness under Appellate Rule 7(B), we “focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count.” *Brown v. State*, 10 N.E.3d 1, 8 (Ind. 2014) (citing *Cardwell*, 895 N.E.2d at 1225). Generally, we will affirm a trial court’s sentencing decision unless it is “overcome by compelling evidence portraying in a positive light the nature of the offense . . . and the defendant’s character.” *Stephenson v. State*, 29 N.E.3d 111, 111–12 (Ind. 2015).

[11] When considering the nature of the offense, we start with the advisory sentence. *Brown*, 10 N.E.3d at 4 (citing *Anglemeyer*, 868 N.E.2d at 494). Sons was convicted of murder with an enhancement for the use of a firearm during the commission of the crime. “A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years.” Ind. Code § 35-50-2-3(a). If a defendant is found guilty of using a firearm to commit murder, “the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.” *Id.* § 35-50-2-11(g). Sons received an advisory 55-year sentence for murder and a 10-year sentence for the firearm enhancement, resulting in an aggregate sentence of 65 years.

[12] We also analyze the nature of the offense to determine whether the offense was “accompanied by restraint, regard, and lack of brutality.” *Stephenson*, 29 N.E.3d at 122. Here, these factors are not present. Sons shot Robert, who was

debilitated from a fight with cancer, in the back of the head. After she killed Robert, she moved his body, attempted to clean up the scene, and left his body in the house for two days. In the meantime, Sons spent one of those nights at her ex-boyfriend's home. Sons only confessed to the killing after her sister advised her to do so, and, in doing so, she fabricated the story that she told law enforcement.

[13] In considering the character of the offender, “we engage in a broad consideration of a defendant’s qualities,” *T.A.D.W.*, 51 N.E.3d 1205, 1211 (Ind. Ct. App. 2016) (citing *Aslinger v. State*, 2 N.E.3d 84, 95 (Ind. Ct. App. 2014), *clarified on other grounds on reh’g*), including whether the defendant has “substantial virtuous traits or persistent examples of good character,” *Stephenson*, 29 N.E.3d at 122. These traits are not present here. Along with the callous nature of the present crime, Sons has misdemeanor convictions for possession of a controlled substance as a misdemeanor, reckless driving, driving while suspended, and disorderly conduct as well as a felony conviction for issuing an invalid prescription for legend drugs as a practitioner. Sons has also committed multiple probation violations. Thus, Sons has not demonstrated that she has the positive traits that would lead us to issue a revised sentence.

[14] Based on the serious nature of Sons’s offense and her history of criminal conduct, we cannot say that she has produced compelling evidence demonstrating that the nature of her offense or her character renders her sentence inappropriate. See *Hayko v. State*, 211 N.E.3d 483, 487 n.1 (Ind. 2023), *reh’g denied* (Aug. 18, 2023).

[15] Affirmed.

Altice, C.J., and Bradford, J., concur.

ATTORNEY FOR APPELLANT

Nathaniel C. Henson
Rhame, Elwood & McClure, PC
Portage, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General
Jennifer Anwarzai
Deputy Attorney General
Indianapolis, Indiana