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IN THE
COURT OF APPEALS OF INDIANA

ALLAN SCHLECHTY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 38A02-0909-CR-864
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE JAY CIRCUIT COURT
The Honorable Brian D. Hutchison, Judge
Cause No. 38C01-0812-FA-15

February 23, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Allan Schlechty pleaded guilty to child molesting[1] as a Class A felony and was sentenced to forty years executed. He appeals, raising the following restated issue: whether his forty-year sentence was inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

On December 10, 2008 at approximately 7:45 in the morning, twelve-year-old M.B. was walking to school in Dunkirk, Indiana. As she walked in an alley near her home, she was approached from behind by a man, who was later identified as Schlechty, wearing a dark colored, hooded sweatshirt. She pushed Schlechty away when he tried to kiss her. He then asked her how old she was, and she told him she was twelve. Schlechty grabbed M.B. and pushed her to the ground, putting his hand around her neck. He told her to do what he said and to walk with him. M.B. was scared, started crying, and walked with Schlechty back to his car, a bluish-green four-door Buick Skylark, which was parked nearby. Schlechty saw that M.B. had a cell phone and took it away from her.

When they reached the car, Schlechty put M.B. in the front passenger seat and drove out of town and onto rural country roads. At one point, he stopped the car and ordered M.B. to perform oral sex on him, which she did. He then demanded that she remove her pants, underwear, and shoes and get in the back seat. Schlechty then performed sexual intercourse on M.B. Afterwards, he ordered her to get dressed and drove her to a wooded area.

[1] *See* Ind. Code § 35-42-4-3.

Schlechty made M.B. enter the woods, and once there, he picked up a large branch and threatened to kill her if she told anyone what happened. He then drove her to a nearby intersection, made her get out of the car, and warned her not to look back. After Schlechty drove away, a woman stopped and drove M.B. to the police department.

The State charged Schlechty with two counts of child molesting, each as a Class A felony, rape as a Class B felony, and criminal confinement as a Class C felony. On June 1, 2009, Schlechty pleaded guilty to one count of child molesting as a Class A felony. Pursuant to the plea agreement, the State would dismiss the remaining counts, and the sentence would be left to the discretion of the trial court with a cap of forty years executed. At the sentencing hearing, the trial court found two mitigating circumstances: (1) Schlechty's remorse and (2) the hardship his imprisonment would cause his two young children. It also found the following aggravating circumstances: (1) Schlechty had an increased likelihood of recidivism due to his lack of insight into the reasons for his commission of the current offense; (2) prior felony conviction; (3) prior juvenile adjudication for a crime that would have been a felony if committed by an adult; (4) recent violation of probation; (5) Schlechty was on probation at the time of the instant offense; (6) the offense was committed by the threat and use of force; and (7) the harm and injury suffered by the victim was greater than the elements necessary to prove the commission of the crime.[2] The trial court found that the

[2] We commend the trial court on its oral and written sentencing statements. They have greatly facilitated appellate review.

aggravators outweighed the mitigators and sentenced him to forty years executed. Schlechty now appeals.

DISCUSSION AND DECISION

Appellate courts may revise a sentence after careful review of the trial court's decision if they conclude that the sentence is inappropriate based on the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). Even if the trial court followed the appropriate procedure in arriving at its sentence, the appellate court still maintains a constitutional power to revise a sentence it finds inappropriate. *Hope v. State*, 834 N.E.2d 713, 718 (Ind. Ct. App. 2005).

Schlechty argues that his forty-year executed sentence was inappropriate in light of the nature of the offense and his character. He specifically contends that the sentence was inappropriate given his character because of his guilty plea, which demonstrated an acceptance of responsibility, his young age, and the undue hardship his imprisonment would cause his young children. He also claims that the nature of the offense did not warrant the maximum sentence under the plea agreement.[3]

As to the nature of the offense, Schlechty abducted twelve-year-old M.B. while she was walking walked to school. After driving her out of town, he forced her to perform oral sex on him. He then ordered M.B. to remove her clothing and performed sexual intercourse

[3] Although Schlechty cites to law pertaining to the finding of aggravating and mitigating circumstances and our review of such, he fails to develop any argument regarding how the trial court abused its discretion in doing so. "Generally, a party waives any issue raised on appeal where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record." *Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005), *trans. denied*; see also Ind. Appellate Rule 46(A)(8)(a). Therefore, we conclude that Schlechty has waived any challenge to the finding of aggravating and mitigating circumstances.

on her. Schlechty picked up a large tree branch and threatened to kill M.B. if she told anyone what happened. He then left her at an intersection and told her not to look back as he drove away. Schlechty's actions were more egregious than the elements necessary to prove child molesting in that he repeatedly threatened M.B.'s life. As a result of this crime, M.B. was still attending counseling at the time of the sentencing hearing and had been hospitalized because of "hallucinations and nervous breakdowns." *Sentencing Tr*. at 14-15.

As to Schlechty's character, his criminal history included a felony conviction for burglary and a juvenile adjudication for theft, which would be a felony if committed by an adult. He also had several violations of probation and was on probation at the time he committed the present offense, which indicated that past probation opportunities have not dissuaded Schlechty from committing further offenses. Additionally, although he pleaded guilty and apologized to M.B. at the sentencing hearing, Schlechty had already received a significant benefit when the State dismissed his other three charges because he would have faced a much lengthier sentence if convicted of all of the charged offenses. We conclude that Schlechty's forty-year sentence was not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

DARDEN, J., and MAY, J., concur.