

STATEMENT OF THE CASE

Appellant-Defendant, Vickie A. Chaffins (Chaffins), appeals her sentence following a guilty plea for dealing methamphetamine, as a Class A felony, Ind. Code § 35-48-4-1.1(b).

We affirm.

ISSUE

Chaffins presents one issue for our review, which we restate as: Whether her sentence is inappropriate considering the nature of her offense and her character.

FACTS AND PROCEDURAL HISTORY

On December 10, 2008, an undercover officer with the Drug Task Force of DeKalb County, Indiana, gave Chaffins twelve boxes of pseudoephedrine pills. Chaffins took the pills, manufactured methamphetamine and the next day, gave the undercover officer approximately 6.8 grams of methamphetamine as compensation for the pseudoephedrine pills which he had given her. On December 15, 2008, the State filed an Information charging Chaffins with dealing in methamphetamine, as a Class A felony, I.C. § 35-48-4-1.1(b). On December 2, 2009, Chaffins entered into a plea agreement with the State, wherein she agreed to plead guilty to dealing methamphetamine, as a Class A felony, and, in exchange, the State would dismiss all charges pending under three other cause numbers, including two Class A felonies.

On January 21, 2010, the trial court conducted a sentencing hearing. After reviewing the pre-sentence investigation report for Chaffins and hearing arguments by counsel, the trial court stated:

[I]n summary then [Chaffins,] you have five (5) prior felony convictions in the State of Indiana and [] a number of other misdemeanor convictions. It's a little distressing to me [] that [] while you've been in jail awaiting sentencing and disposition of these cases [] your behavior over there has [been] anything but exemplary. [T]here were a number of rule violations [] while you've been incarcerated at the DeKalb County Jail. [A]s your attorney alluded to, [you have had] a bad break [] relative to your health particularly. [H]aving said that[,] it also strikes me that[] there is a distinct possibility that that bad break was at least some respect [] the result of some very very bad choices you have made.

* * *

[P]robation has largely been a failure with you, it just hasn't worked. [Y]ou've been given an awful lot of help, guidance, assistance[,] second chances, breaks by being able to serve a significant sentence at the Serenity House. None of which have had the effect of deterring your conduct, none of which have had the effect of [] causing you to avoid the use of drugs, the manufacturing of drugs or being involved in that business[.]

* * *

[Y]our health situation is unfortunate but I don't know that I perceive that to be a mitigating factor. []I cannot find any mitigating circumstances. []I believe that there are significant aggravators out there not the least of which is your [] criminal history.

* * *

There aren't any mitigators. There's nothing that I can think of in the file and in the Pre-Sentence Investigation Report which would justify a reduction below the advisory sentence provided by Indiana law[,] which is thirty (30) years.

(Transcript pp. 15-18). That same day, the trial court entered its written Order sentencing Chaffins to thirty years in the Indiana Department of Correction.

Chaffins now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Chaffins contends that her sentence is inappropriate when the nature of her offense and character are considered. Regardless of whether the trial court has sentenced the defendant within its discretion, we have the authority to independently review the appropriateness of a sentence authorized by statute through Appellate Rule 7(B). *King v. State*, 894 N.E.2d 265, 267 (Ind. Ct. App. 2008). That rule 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. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007). Where a defendant asks us to exercise our appropriateness review, the burden is on the defendant to persuade us that her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). "Ultimately the length of the aggregate sentence and how it is to be served are the issues that matter." *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008). Whether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other considerations that come to light in a given case. *Id.*

Chaffins pled guilty to dealing methamphetamine, as a Class A felony. "A person who commits a Class A felony shall be imprisoned for a fixed term of between twenty (20) and fifty (50) years, with the advisory sentence being thirty (30) years." I.C. § 35-50-2-4. Chaffins was sentenced to the advisory thirty year sentence.

As for the nature of Chaffins' offense, her conduct was not distinctively egregious and, thankfully, did not result in the victimization of anyone due to the fact that she delivered the drugs to an undercover officer working for the Drug Task Force. However, she did deliver to the officer more than twice the amount of methamphetamine that was required to qualify her crime for treatment as a Class A felony. *See* I.C. § 35-48-4-1.1(b).

As for Chaffins' character, her criminal history demonstrates a serious disrespect for the law. She has been convicted of five prior felonies accumulated during four separate occasions of criminal conduct, a myriad of misdemeanors, and more recently, was facing two additional charges for Class A felonies that were dismissed pursuant to her plea agreement here. Furthermore, the trial court noted that she had violated jail rules while being held waiting the outcome of this case.

The crux of Chaffins' argument is that her sentence is inappropriate because she is H.I.V. positive. She contends that her sentence is inappropriate because she will likely have a shorter life span than the average person, and she will be a particular burden upon tax payers while incarcerated. However, neither of those concerns fit in the consideration of the

nature of Chaffins' offense or character. In sum, considering Chaffins' offense and character, the advisory sentence of thirty years is not inappropriate.

CONCLUSION

Based on the foregoing, we conclude that Chaffins' sentence is not inappropriate when the nature of her offense and character are considered.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.