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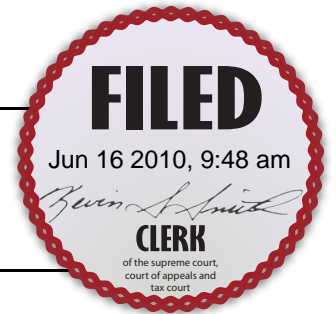
ATTORNEY FOR APPELLANT:

**KAREN M. HEARD**  
Vanderburgh County Public Defender Office  
Evansville, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**  
Attorney General of Indiana

**MARJORIE LAWYER-SMITH**  
Deputy Attorney General  
Indianapolis, Indiana



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**IN THE  
COURT OF APPEALS OF INDIANA**

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LARRY ANDREW ANDERSON, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 82A04-0911-CR-656

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APPEAL FROM THE VANDERBURGH SUPERIOR COURT  
The Honorable J. Douglas Knight, Judge  
Cause No. 82D02-0906-FD-495

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**June 16, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

Larry Andrew Anderson appeals his two-year sentence for Class D felony possession of a controlled substance<sup>1</sup> and Class D felony possession of a legend drug.<sup>2</sup> We affirm.

### **FACTS AND PROCEDURAL HISTORY**

According to the probable cause affidavit,<sup>3</sup> on May 29, 2009, Officer McDowell was called to a grocery store, where the property owner complained that Anderson was begging for money, refused to leave, and appeared to be drunk. Officer McDowell approached Anderson and smelled alcohol on his breath. Anderson's speech was slurred, and his eyes were bloodshot and glassy. Officer McDowell told Anderson to go home; however, Anderson walked off in a direction different from where he had said he lived. Officer McDowell arrested Anderson for public intoxication. When Officer McDowell searched Anderson he found two pills in Anderson's pocket, one Temazepam and one Paxil. Anderson did not have a prescription for either, and he admitted he either purchased them from someone or received them from someone for free.

Anderson pled guilty without a plea agreement to possession of a controlled substance and possession of a legend drug, both as Class D felonies. The prosecutor and the probation department recommended a sentence of eighteen months, the advisory sentence for a Class D felony.<sup>4</sup> After discussing Anderson's criminal record and history of substance abuse, the trial

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<sup>1</sup> Ind. Code § 35-48-4-7.

<sup>2</sup> Ind. Code §§ 16-42-19-13 and -27(a).

<sup>3</sup> The hearing at which the factual basis for Anderson's offenses was established was not transcribed. Both parties have cited to the probable cause affidavit to support their statement of facts.

<sup>4</sup> "A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years." Ind. Code § 35-50-2-7.

court concluded the recommendation was “awfully lenient,” and sentenced him to concurrent terms of two years. (Tr. at 9.)

### **DISCUSSION AND DECISION**

Anderson argues his sentence is inappropriate.<sup>5</sup> We may revise a sentence if it is “inappropriate in light of the nature of the offense and the character of the offender.” Ind. Appellate Rule 7(B). We give deference to the trial court, recognizing its special expertise in making sentencing decisions. *Barber v. State*, 863 N.E.2d 1199, 1208 (Ind. Ct. App. 2007), *trans. denied*. The defendant bears the burden of persuading us the sentence is inappropriate. *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007).

The State acknowledges the facts relating to the nature of the offense are “not noteworthy,” (Appellee’s Br. at 3,) but argues a sentence above the advisory is warranted in light of Anderson’s substantial criminal history. Anderson acknowledges his lengthy criminal record, but asserts his sentence is inappropriate because he has no prior drug convictions and his last felony conviction was over seven years ago.

Anderson has prior drug convictions, specifically possession of marijuana and paraphernalia. He has a lengthy record of alcohol-related convictions, including twenty-two convictions of public intoxication. Anderson’s criminal record, which the trial court

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<sup>5</sup> Anderson also complains the trial court did not give an adequate explanation for the sentence imposed. *See Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007) (trial court must give a sentencing statement that includes “a reasonably detailed recitation of the trial court’s reasons for imposing a particular sentence”), *clarified on reh’g on other grounds*. We disagree, as it is clear the sentence was based on Anderson’s lengthy criminal history.

characterized as “one of the longest criminal histories that I have seen in a long time,” (Tr. at 7), also includes convictions of battery, domestic battery, invasion of privacy, intimidation, false reporting, residential entry, trespass, theft, auto theft, conversion, receiving stolen property, and disorderly conduct.

Anderson notes he received substance abuse treatment in 2006 and requested additional treatment. The trial court recommended Anderson receive substance abuse treatment while incarcerated. Given Anderson’s history of drug and alcohol offenses, we see nothing inappropriate about him receiving treatment within the structured environment of incarceration, rather than on probation or work release.

Anderson has not convinced us his sentence is inappropriate in light of his character and offense. Therefore we affirm.

Affirmed.

BAILEY, J., and BARNES, J., concur.