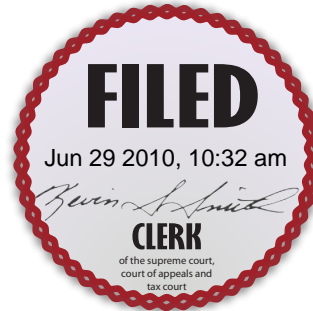


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

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Rushville, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

JAMES DAUGHERTY,
Appellant-Defendant,

VS.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 21A01-1001-CR-55

APPEAL FROM THE FAYETTE SUPERIOR COURT
The Honorable Ronald T. Urdal, Judge
Cause No. 21D01-0808-FD-534

June 29, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

On August 12, 2008, James Daugherty was in an intoxicated state while on a public street in Fayette County. He pleaded guilty to Public Intoxication, a Class B misdemeanor.¹ On January 11, 2010, he was sentenced to 180 days imprisonment.² He now appeals, challenging his sentence as inappropriate. We affirm.

Discussion and Decision

Indiana Code Section 35-50-3-3 provides in relevant part, “A person who commits a Class B misdemeanor shall be imprisoned for a fixed term of not more than one hundred eighty (180) days[.]” Accordingly, Daugherty was sentenced to the maximum term allowable under the statute.

Pursuant to Indiana Appellate Rule 7(B), we may revise a sentence authorized by statute, if after due consideration of the trial court’s decision, we conclude that the sentence is inappropriate in light of the nature of the offense and the character of the offender. We are deferential to the trial court’s sentencing decision, recognizing the unique perspective a trial court has in the sentencing process. Patterson v. State, 909 N.E.2d 1058, 1063 (Ind. Ct. App. 2009). The defendant bears the burden of persuading this Court that his sentence is inappropriate. Id.

The nature of Daugherty’s offense is that he was shirtless and stumbling down a

¹ Ind. Code § 7.1-5-1-3.

² Daugherty’s 180-day sentence may have been served, in light of our statute providing for one day of credit time for each day the person is imprisoned, if assigned to Class I. See Ind. Code § 35-50-6-3. Nonetheless, Daugherty has not advised of his credit time classification, and the State has not filed an appellee’s brief.

public street while he was in an intoxicated state. He had a bottle of vodka on his person. As to Daugherty's character, he has a lengthy history of arrests and was arrested on three occasions (twice for Battery and once for Invasion of Privacy) during the pendency of the instant charge.³ We are not persuaded that Daugherty's 180-day sentence is inappropriate.

Affirmed.

MAY, J., and BARNES, J., concur.

³ In the absence of a Presentence Investigation Report, it is unclear how many of Daugherty's arrests, if any, resulted in convictions. However, a lengthy record of arrests is a proper consideration when evaluating the character of the offender. Johnson v. State, 837 N.E.2d 209, 216 n.7 (Ind. Ct. App. 2005), trans. denied.