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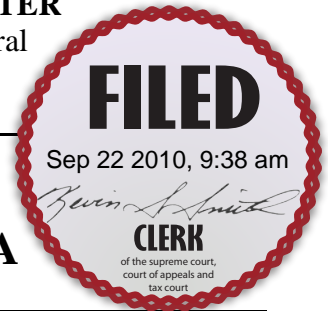
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**IN THE
COURT OF APPEALS OF INDIANA**



HAROLD S. OWEN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 48A05-1003-CR-130

APPEAL FROM THE MADISON CIRCUIT COURT
The Honorable Rudolph R. Pyle III, Judge
Cause No. 48C01-0904-FA-199

September 22, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Harold S. Owen appeals the forty-five-year aggregate sentence that was imposed following his guilty plea to Dealing in Methamphetamine,¹ a class A felony, Dealing in Methamphetamine,² a class B felony, and one count of Maintaining a Common Nuisance,³ a class D felony. Owen argues that the sentence was inappropriate in light of the nature of the offenses and his character. Concluding that the sentence was appropriate, we affirm the judgment of the trial court.

FACTS

On April 13, 2009, Owen was arrested at a Madison County motel for possessing, with the intent to deliver, approximately 4.5 grams of methamphetamine. On January 4, 2010, Owen withdrew his plea of not guilty and admitted that he was dealing methamphetamine from a motel room. Owen also admitted that police officers found an additional .18 grams of methamphetamine in his pocket and 4.32 additional grams in the room. Thereafter, Owen was charged with Count I, dealing in methamphetamine, a class A felony, Count II, dealing in methamphetamine, a class B felony, and Count III, maintaining a common nuisance, a class D felony. One day before Owen's jury trial was to commence, he pleaded guilty as charged.

Owen failed to appear for sentencing. The trial court sentenced Owen in absentia—with defense counsel present—to forty-five years on Count I, twenty years on Count II, and three years on Count III. In imposing the sentence, the trial court identified

¹ Ind. Code § 35-48-4-1.1(2)(C)(b)(1).

² I.C. § 35-48-4-1.1(a)(1)(c).

³ I.C. § 35-48-4-13(b).

Owen's lengthy criminal history as an aggravating factor. Owen's prior convictions include burglary, battery with a deadly weapon, dealing in methamphetamine, and theft. The trial court also observed that Owen had amassed several probation violations and ordered the sentences to run concurrent with each other for an aggregate term of forty-five years.

Owen appeared at a hearing on March 1, 2010, following the issuance of an arrest warrant, and offered no excuse for his absence at the sentencing hearing. Owen now appeals.

DISCUSSION AND DECISION

The sole issue that Owen raises on appeal is that the forty-five-year sentence is inappropriate in light of the nature of the offenses and his character. More specifically, Owen contends that the sentence cannot stand because the offenses were "non-violent" and no one was physically harmed. Appellant's Br. p. 5.

In reviewing a challenge to the appropriateness of a sentence, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade the Court that the sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). This Court may revise a sentence authorized by statute only where the Court, after due consideration of the trial court's sentencing decision, finds that the sentence imposed is inappropriate in light of the nature of the offenses and the defendant's character. Ind. Appellate Rule 7(B).

As for the nature of the offenses, Owen attempts to discount the seriousness of the offenses as a justification for a revision of his sentence. Notwithstanding this claim, we

have previously upheld sentences similar to that which Owen received. See Storey v. State, 875 N.E.2d 243, 252 (Ind. Ct. App. 2007) (holding that concurrent enhanced sentences of forty-five years for possession of methamphetamine in excess of three grams with intent to deliver were not inappropriate); see also Simmons v. State, 828 N.E.2d 449, 454 (Ind. Ct. App. 2005) (observing that it was proper for the trial court to enhance the defendant's sentence in a drug prosecution based solely on criminal history, which included prior drug convictions). In short, Owen's contention that his sentence must be revised based on the non-violent aspect of his crimes does not aid his inappropriateness claim.

As for Owen's character, the record shows that he has amassed a lengthy criminal history, including a prior conviction for dealing in methamphetamine. Tr. p. 42-43. Moreover, Owen has been found in violation of probation on several occasions, and he failed to appear at the sentencing hearing in this case. Appellant's App. p. 23-25, 87-93; tr. p. 39-45. At a subsequent hearing, Owen offered no explanation for his failure to appear for sentencing. Appellant's App. p. 96-97; tr. p. 48-49.

It reflects poorly on Owen that he has continued to commit crimes despite repeated opportunities to reform. In other words, the record establishes Owen's disrespect for our laws and his propensity to engage in criminal activity. As a result, Owen has failed to demonstrate that his sentence is inappropriate in light of the nature of the offenses and his character. Thus, we decline to revise Owen's sentence.

The judgment of the trial court is affirmed.

NAJAM, J., and MATHIAS, J., concur.