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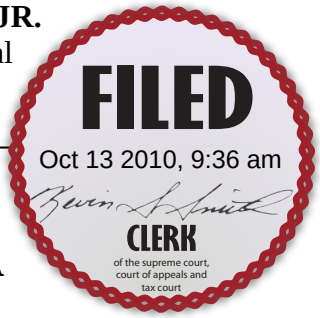

IN THE COURT OF APPEALS OF INDIANA

RONALD BRUCE BLAKE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 73A01-1002-CR-123
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE SHELBY SUPERIOR COURT
The Honorable Jack A. Tandy, Judge
Cause No. 73D01-0907-FC-36

October 13, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Ronald Bruce Blake appeals his sentence for operating a vehicle after forfeiture for life as a class C felony.[1] Blake raises two issues, which we consolidate and restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

The relevant facts follow. On July 3, 2009, Blake drove a van on Morristown Road in Shelby County and at the time his driving privileges had been forfeited for life. On July 6, 2009, the State charged Blake with operating a vehicle after forfeiture for life as a class C felony and public intoxication as a class B misdemeanor.[2] On December 18, 2009, Blake pled guilty to operating a vehicle after forfeiture for life as a class C felony pursuant to a plea agreement which provided that Blake's sentence would not exceed six years.[3]

On January 27, 2010, the court held a sentencing hearing at which Blake testified regarding his physical and medical conditions. Blake requested the court to impose a minimum sentence and allow him to serve the balance on house arrest. The State recommended that Blake receive six years executed and argued that he "just keeps driving while an habitual traffic violator," that "[w]e've taken his license for life and he's proven four (4) times that doesn't work," that "[w]e've tried probation . . . [and] house arrest," and that "[n]othing's gonna stop him." Transcript at 32-33. Counsel for Blake

[1] Ind. Code § 9-30-10-17 (2004).

[2] Ind. Code § 7.1-5-1-3 (2005).

[3] The plea agreement did not discuss the charge of public intoxication.

then recommended that Blake receive an "executed sentence of two (2) years with the balance to be followed by house arrest." Id. at 34. The court accepted the State's recommendation and sentenced Blake to six years to be executed in the Department of Correction.

We note that Blake initially argues that the trial court abused its discretion by failing to enter a sentencing statement. However, "even if the trial court is found to have abused its discretion in the process it used to sentence the defendant, the error is harmless if the sentence imposed was not inappropriate." Mendoza v. State, 869 N.E.2d 546, 556 (Ind. Ct. App. 2007), trans. denied; see also Windhorst v. State, 868 N.E.2d 504, 507 (Ind. 2007) (holding that, in the absence of a proper sentencing order, we may either remand for resentencing or exercise the authority to review the sentence pursuant to Ind. Appellate Rule 7(B)), reh'g denied; Ramos v. State, 869 N.E.2d 1262, 1264 (Ind. Ct. App. 2007) ("Where we find an irregularity in the trial court's sentencing decision, we may (1) remand to the trial court for a clarification or new sentencing determination, (2) affirm the sentence if the error is harmless, or (3) reweigh the proper aggravating and mitigating circumstances independently at the appellate level.") (citing Merlington v. State, 814 N.E.2d 269, 273 (Ind. 2004)). Under the circumstances of this case, we will address whether Blake's sentence is inappropriate under Ind. Appellate Rule 7(B).

Indiana Appellate Rule 7(B) provides that this court "may revise a sentence authorized by statute 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." Under this rule, the defendant must persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

Blake argues that he was sentenced to "the maximum sentence possible under the plea agreement," that he "accepted responsibility for his behavior by entering into a plea and admitting his guilt rather than demanding a trial," that there was "an absence of a victim of his crime," that prison would impose "undue hardship" on him "in light of his multiple degenerative medical conditions," that his character and actions are not "'the worst' so as to justify the imposition of the maximum permissible sentence," and that "[w]hile [his] criminal history is somewhat lengthy, the majority of his history consists of misdemeanor convictions, primarily for public intoxication, and of the three (3) felony convictions entered prior to this offense, one was already utilized in order to enhance [his] charge in this case from a D Felony to a C Felony." Appellant's Brief at 6-7.

The State argues that Blake's sentence was not inappropriate because Blake "was reported to have been swerv[ing] all over the road and authorities found him slumped over the steering wheel with alcohol in the vehicle," that Blake has a "substantial criminal history," and that Blake "has been provided opportunities at probation and house arrest in the past but has failed to demonstrate success with those opportunities." Appellee's Brief at 8.

Our review of the nature of the offense reveals that Blake admitted that on July 3, 2009, he drove and operated a van, that at that time his driving privileges had been

forfeited for life, and that he knew that he did not have a right to drive at that point. The record also shows that there was a twelve-pack of beer in the van.

Our review of the character of the offender reveals that Blake pleaded guilty to operating a vehicle after forfeiture for life as a class C felony. The presentence investigation report shows that Blake was convicted of public intoxication, illegal consumption of alcohol, illegal possession of alcohol, disorderly conduct, and reckless driving in 1974, three counts of public intoxication in 1977, disregarding a stop sign in 1978, public intoxication, driving while intoxicated, and driving while suspended in 1981, operating a vehicle while intoxicated and driving while suspended in 1985, operating a vehicle while intoxicated and being an habitual traffic offender in 1987, public intoxication and operating a motor vehicle after forfeiture of license for life in 1988, public intoxication in 1995, two counts of public intoxication in 1996, operating a vehicle after lifetime suspension and operating a vehicle while intoxicated in 1998, public intoxication in 2006, and operating a motor vehicle as an habitual traffic offender in 2007. The record also shows that Blake was charged with criminal mischief, invasion of privacy, and public intoxication in 1989 and, although it does not indicate which of those charges resulted in convictions, Blake was sentenced to one year in the Indiana Department of Correction. The record further shows that Blake violated probation in 1997 and violated house arrest in 1998. At the sentencing hearing, Blake acknowledged that this offense was the "fourth time [he has been] caught driving while [his] license is

suspended for life" and that "[e]very time [he had] also been drinking . . . ." Transcript at 27.

After due consideration, and in light of the fact that Blake has been convicted of several similar offenses and has previously violated house arrest, we cannot say that the sentence imposed by the trial court was inappropriate in light of the nature of the offense and the character of the offender. See Brattain v. State, 891 N.E.2d 1055, 1058 (Ind. Ct. App. 2008) (holding that the defendant's maximum executed sentence under a written plea agreement for operating a motor vehicle after forfeiture of license for life as a class C felony and operating a vehicle with a BAC of .15 percent or greater as a class A misdemeanor was not inappropriate).

For the foregoing reasons, we affirm Blake's sentence for operating a vehicle after forfeiture for life as a class C felony.

Affirmed.

DARDEN, J., and BRADFORD, J., concur.