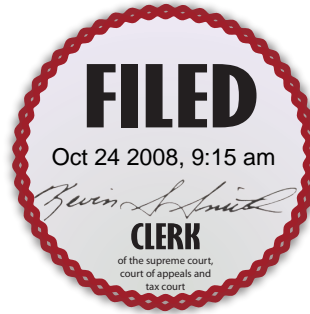


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEYS FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

**MARCE GONZALEZ, JR.**  
Dyer, Indiana

**STEVE CARTER**  
Attorney General of Indiana

**KAREN FREEMAN-WILSON**  
Freeman-Wilson & Lewis-Shannon, LLC  
Gary, Indiana

**RICHARD C. WEBSTER**  
Deputy Attorney General  
Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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DANNY CROSSLEY,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 45A05-0802-CR-103

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APPEAL FROM THE LAKE SUPERIOR COURT  
The Honorable Salvador Vasquez, Judge  
Cause No. 45G01-0506-FC-86

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**October 24, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

## STATEMENT OF THE CASE

Danny Crossley appeals his conviction and sentence for class C felony welfare fraud.<sup>1</sup>

We affirm.

### ISSUES

1. Whether the evidence was sufficient to support Crossley's conviction.
2. Whether the trial court erred in sentencing Crossley.

### FACTS

Crossley is the president and director of Catch the Fire Christian Fellowship, Inc. ("Catch the Fire"), a not-for-profit corporation located in Lake County. He is also the pastor of Catch the Fire Christian Fellowship Church, with a master's degree in sociology, a Master of Divinity degree, and a Doctor of Ministry degree.

In 1992, Indiana's Family and Social Services Administration's ("FSSA") Division of Family Resources implemented Indiana Manpower Placement and Comprehensive Training ("IMPACT") to "provide[] services designed to help recipients of Food Stamps and TANF [Temporary Assistance for Needy Families] achieve economic self-sufficiency through education, training, job search and job placement activities." <http://www.in.gov/fssa/dfr/4072.htm> (last visited Sept. 24, 2008). "IMPACT contracts with service providers across Indiana to implement job search, job

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<sup>1</sup> Ind. Code § 35-43-5-7.

development, and placement activities.” *Id.* Clients deemed eligible by their case managers to utilize IMPACT are referred to service providers.

In 1998, Crossley “applied for and was given contracts . . . to provide services to clients through the IMPACT Program beginning on October 1<sup>st</sup>, 1998[.]” (Tr. 41). Catch the Fire therefore became a vendor of services for which payment would be made by the State. Catch the Fire was one of the first faith-based organizations in Lake County to become a vendor for services.

Thereafter, Crossley negotiated two contracts to provide services under the IMPACT program. One contract covered the period from October 1, 2001, through September 30, 2002 (the “2001 Contract”) and the other covered the period from October 1, 2002, through September 30, 2003 (the “2002 Contract”). Crossley “prepared or had prepared and signed as vendor all claims submitted to the [FSSA’s] Division of Family Resources to obtain payment for services” under the 2001 Contract and 2002 Contract. (Tr. 42).

Each contract provided that Catch the Fire would provide various service components, such as “Progress and Development,” “Mentor/Coaching” and different levels of job retention. (State’s Ex. 1). Each service component had a “UNIT COST,” “TOTAL COST,” and “OUTCOME/PAYMENT POINT.” *Id.* The outcome/payment points listed specific services to be provided within each service component before the unit cost would be paid to the service provider.<sup>2</sup>

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<sup>2</sup> For example, the 2001 Contract provided that Catch the Fire would provide services entitled “Progress and Development.” (State’s Ex. 1). It further provided payment for these services in the amount of \$750

Under the 2001 Contract, the State agreed to pay Catch the Fire up to \$281,550 for services provided; under the 2002 Contract, it agreed to pay up to \$150,000. Pursuant to the 2001 Contract, Catch the Fire received payments from the State totaling \$165,700. Pursuant to the 2002 Contract, Catch the Fire received payments from the State totaling \$145,800.

The State required training for all of its service providers during which it provided “[i]nformation about how to bill [and] information about who[m] to contact if there were questions or problems.” (Tr. 55). The training also provided information regarding the type of documentation required by the State before a service provider could receive payments; further, the State instructed the service providers on how to fill out the documents required by going “line by line on the claim and explain[ing] what was to go in each box in order to fill out the claim in order for it to get paid.” (Tr. 57). The training reviewed “the payment points and basically explained what . . . the local office would be expecting to see and have done . . . .” *Id.*

Payment of some services required the completion of documents before a service provider could bill the State for those services. Such documentation included the clients’

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per unit. Payment, however, could not be received until Catch the Fire reached a certain outcome or payment point for those services. In order to reach the required outcome or payment point for “Progress and Development,” the State required Catch the Fire to provide and verify the following:

Assessment which includes a family health, social, personality, vocational, substance and alcohol abuse, work history, and educational assessments. Classroom instruction on: parenting, childcare, transportation, time management, budgeting, goal-setting, employer expectations, problem-solving, grooming, and work attitude. Also included is resume writing, mock interviewing, and computer introduction education. Payment point achieved at participation along with submission of client’s transportation, child-care, resume, budget, employment marketability, and pre and post-test certificate.

*Id.*

attendance sheets, resumes, transportation plans, child-care plans, verifications that the clients had participated in classroom training, and verification that the clients had applied for employment; the documentation depended on the service provided to the client. Clients were “required to complete the documents themselves” and attend any classes required. (Tr. 633).

Case managers determined each client’s “self-sufficiency” plan, to be implemented by the service providers. (Tr. 102). “It was [not] the [service] provider’s job to change that self-sufficiency plan.” *Id.* The service providers received copies of the self-sufficiency plans.

If a client did not pursue services once referred to a service provider, his or her benefits would be discontinued until “they cooperated with the IMPACT program.” (Tr. 100). Furthermore, service providers could not submit claims with the State for clients who did not participate in services. Service providers were required to report any nonparticipation to the clients’ respective case managers. Furthermore, if service providers discovered that the referral had been in error or no longer appropriate, e.g., the client had full-time employment, they were to report that information to the client’s case manager. “If they did provide job replacement services and a person was already employed, they . . . could not or should not bill for it.” (Tr. 669). If the service provider sought to provide retention services for someone employed, it was their responsibility to seek a modified referral for that client. Without a modified referral, “[t]hey couldn’t bill for placement and they could not bill for retention.” (Tr. 720).

Depending on the benefits received, the State required clients to participate in services for a certain amount of time; for example, clients enrolled in TANF were required to complete thirty hours of participation. Clients enrolled in TANF could receive up to and no more than 10 hours of credit toward their employment requirement if they were enrolled in school; however, they received credit only during their last year if enrolled in a two-year program or technical program. Clients enrolled in a baccalaureate program would not receive any credit.

Lake County's fiscal department reviewed service providers' claims. Each claim included a voucher with the service provider's information and the amount of the claim. The claims also included a summary sheet, listing the names of the clients served; the code for the particular service component provided to the clients; the date the service was completed; and the unit cost for the various services provided.

Documentation—including, but not limited to, attendance sheets, resumes, pre- and post-test certifications—showing that the required services had been provided was attached to each claim. The fiscal department subsequently forwarded the accompanying documentation to the clients' case managers, or if a case was closed, to a separate facility. The fiscal department retained the vouchers and summaries. In Lake County, case managers did not review the documents allegedly completed by the clients and then submitted by the service providers prior to payment.

Once the fiscal department received a claim and its supporting documentation, it would verify that the amount claimed on the voucher matched the amount claimed in the summary sheet. It also would “make sure they were signed and [the voucher] completed

. . . .” (Tr. 173). However, it did not review the supporting documentation. Once it approved the claims, it would send the vouchers and summary sheets to the FSSA’s Indianapolis office for payment. At that point, the fiscal department would file the supporting documentation. Once the Indianapolis office received the voucher and found no procedural errors—such as a missing signature or social security number—it paid the claim.

Crossley personally delivered Catch the Fire’s claims to the fiscal department. He also signed each voucher, “certify[ing] that the . . . amount is legally due, after allowing all just credits, and that no part of the same has been paid.” (State’s Exs. 4, 5).

Sherri Lynn Pete began receiving food stamps and TANF in 1990. On May 16, 2002, her case manager referred her to the IMPACT program “to try to get a job.” (Tr. 226).

Pete met with Crossley on May 28, 2002 and “fill[ed] out forms,” (Tr. 227), including an attendance form, general history form, personality profile, family assessment profile, self-help and chemical history report, child-care plan, monthly budget sheet, and an assessment booklet. Pete went to Catch the Fire “for maybe about three months off and on.” (Tr. 232). She, however, never stayed past noon and never received any classroom instruction on obtaining and maintaining employment. She also never prepared or received a copy of her resume.

In June of 2002, Pete obtained part-time employment, working “about 25, 30 hours a week” and making “[t]wo bucks an hour, plus tips.” (Tr. 240, 241). She did not

receive any health benefits. She maintained that employment for six months. She did not return to Catch the Fire after she got that job.

On or about June 6, 2002, Crossley submitted a voucher and summary to Lake County's Division of Family Resources, seeking reimbursement in the amount of \$750.00 for providing Progress and Development training to Pete. *See State's Ex. 5.* Crossley verified that Pete completed the training on May 3, 2002. Again, completion of the training required

[c]lassroom instruction on: parenting, childcare, transportation, time management, budgeting, goal-setting, employer expectations, problem-solving, grooming, and work attitude. Also included is resume writing, mock interviewing, and computer introduction education. Payment point achieved at participation along with submission of client's transportation, child-care, resume, budget, employment marketability, and pre and post-test certificate.

(State's Ex. 1).

On or about December 9, 2002, Crossley submitted another voucher and summary, seeking reimbursement in the amount of \$2,100.00 for providing three additional service components to Pete. Crossley verified that Pete completed the first service component, "Level 2 Retention 1" on July 3, 2002. *See State's Ex. 5.* Payment for that service required "[r]etention for 30 calendar days (1 month) in a non-temporary job of 25-40 hours per week or employer's definition of full time at a minimum of \$7.00 per hour with access to health benefits." (State's Ex. 1). He also verified that Pete completed a second service component on September 3, 2002, which required a client's "[r]etention for 60 calendar days (2 months) in a non-temporary job of 25-40 hours per week or employer's definition of full time at a minimum of \$7.00 per hour with access to health benefits"



before the service provider could be paid. *Id.* He further verified that Pete completed a third service component on December 4, 2002, payment for which required “[r]etention for 90 calendar days (3 months) in a non-temporary job of 25-40 hours per week or employer’s definition of full time at a minimum of \$7.00 per hour with access to health benefits.” *Id.*

In August of 2002, Stacy Jo Johnson’s case manager referred her to Catch the Fire for “Progress & Development” and “Mentoring & Coaching.” (State’s Ex. 8). Johnson met with Crossley on August 19, 2002, and completed some paperwork. She did not attend any classes or workshops. That same day, Johnson informed her case manager “that [she] wasn’t going to be going there” because she did not feel comfortable working with a faith-based organization. (Tr. 289). Johnson did not return to Catch the Fire.

On or about September 15, 2002, Crossley submitted a voucher and summary for payment in the amount of “\$750.00” for services purportedly provided to Johnson. *See* State’s Ex. 5. Crossley verified that Johnson had completed Progress and Development on September 3, 2002. Again, payment for completion of that service required that the client attend classes.

Fifteen days later, Crossley submitted another voucher for payment in the amount of \$300.00 for mentoring and coaching provided to Johnson, verifying that she had completed it on September 30, 2002. *See* State’s Ex. 5. Payment for that service required the following: “[m]entoring, job shadowing and coaching (six weeks) through various training agencies to enhance the client’s . . . ability to maintain employment. Verification by progress notes, and client interviews.” (State’s Ex. 1).

In November of 2001, Louise Orndorff's case manager referred her to Catch the Fire for the following services: "Progress & Dev."; "Mentor/Coaching"; "Level 1 Retention"; and "Level 2 Retention[.]" (State's Ex. 9). Orndorff arrived for her first appointment at Catch the Fire on November 26, 2001, and met with Crossley. She completed several forms but did not undergo any training or attend classes. At no time did she prepare, complete, or receive a resume although a resume was in her file. Crossley "explained the process of Catch the Fire and . . . about getting work through them." (Tr. 309). Specifically, he explained how they would provide transportation to "take people to areas to look for work." *Id.* He did not discuss classes with her.

Orndorff did not return to Catch the Fire because her "husband was real sick." (Tr. 310). She did, however, telephone Catch the Fire and inform them that she would not be returning.

On December 3, 2001, Crossley submitted a voucher for payment of services rendered on behalf of Orndorff. Namely, he sought payment in the amount of \$750.00 for completion of services titled Progress and Development. According to the summary submitted by him, Orndorff completed her services on November 26, 2001. *See* State's Ex. 5.

Erik Kroll "never went to anything or signed up for anything" at Catch the Fire. (Tr. 320). Although Catch the Fire had several documents purportedly completed and signed by Kroll, he "never filled any . . . out and never went" to Catch the Fire. *Id.* Much of the information contained in the documents, including Kroll's first name, was incorrect. Kroll remained unaware that he had received a referral to Catch the Fire until

July of 2007. Kroll obtained full-time employment in February of 2003 after he answered an advertisement in the newspaper.

On April 29, 2003, and July 1, 2003, Crossley submitted documentation for payment of services rendered to Kroll. *See* State's Ex. 4. Crossley sought and received payment of \$3,200.00 for providing Job Readiness; and three levels of Job Search, Development and Placement.<sup>3</sup>

In July of 2002, Rhonda Simpson received a referral to Catch the Fire for services. When she arrived at Catch the Fire, she "got a tour of the church." (Tr. 340). She did not fill out any documents or attend classes. She stayed at Catch the Fire for less than one hour. In August of 2002, she obtained part-time employment, working thirty hours per week for \$5.45 per hour.

Simpson did not return to Catch the Fire. Crossley left "numerous voice mail messages" for Simpson, informing her that there "was paperwork that [she] needed to fill out." (Tr. 342, 343). Shortly thereafter, Crossley "made an appointment to come to [her] job to hand deliver the paperwork," which he did on September 30, 2002. (Tr. 343). Crossley told Simpson that she would receive "a \$50 gift card" if she filled out the paperwork. (Tr. 350).

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<sup>3</sup> Pursuant to the 2002 Contract, Catch the Fire was to receive \$1,100.00 when a client completed "Job Readiness." (State's Ex. 2). To qualify for payment, a client must have completed the following components: "Classroom instruction on: resume writing, child care, parenting, transportation, time management, budgeting, goal-setting, mock interviewing, work attitude, conflict resolution, marketability, and pre and post-test examination." *Id.* Payment in the amount of \$600.00 for the first level of "Job Search, Development & Placement" required the following: "Retention for 30 calendar days in employment of 24-40 hours per week at federal minimum wage or greater . . . [with] not more than 7 days of job disconnect, if no fault of the individual." *Id.* The second and third levels of Job Search, Development & Placement required retention for sixty and ninety days, respectively.

Simpson completed some of the paperwork; however, she did not complete the child-care and transportation plan or the pre- and post- problem solving workshop test. She also did not receive a resume. Crossley retrieved the documents at Simpson's place of employment. Simpson had no further contact with Crossley or anyone from Catch the Fire.

On or about October 16, 2002, Crossley submitted a voucher and documentation for payment in the amount of \$500 for services completed by Simpson on October 15, 2002. *See* State's Ex. 5. According to the summary, Simpson had completed Level 1 Retention, meaning she had retained a "non-temporary job of 20-37 hours per week with wages \$5.25 or more." (State's Ex. 1).

In November of 2002, Kimberly Laban had a part-time job at a fast-food restaurant. As she was working part-time, did not receive benefits, and made no more than the minimum wage, her case manager referred her to Catch the Fire for participation in IMPACT. Laban, however, did not keep her appointment with Catch the Fire as she "already had a job." (Tr. 360).

On or about March 26, 2003, someone from Catch the Fire "brought [a] packet of paper[s] to [her] home, dropped it off one day and came back the next day to pick it up." (Tr. 361). Laban completed several of the documents. Contained in her file, however, were other documents, which although completed, were not completed by her. Those documents included the pre- and post-problem-solving workshop tests; child-care and transportation plans; monthly budget sheet; marketability plan; and resume. On April 4,

2003, Crossley submitted a voucher for payment in the amount of \$1,100.00 for Job Readiness services provided to Laban. *See State's Ex. 4.*

On November 1, 2002, Sharica Herron's case manager referred her to Catch the Fire for IMPACT services. Herron arrived at Catch the Fire on November 15, 2002, and filled out paperwork. She indicated in her paperwork that she was working 22 hours per week at a rate of \$7.15 per hour at a drug store and attending college part-time.

Once enrolled in Catch the Fire's program, Herron attended classes for one hour twice a week. The classes consisted of clients reading pamphlets, some of which "had something to do with prayer . . . ." (Tr. 391-92). She did not receive any instruction on preparing a resume or participate in any mock interviews. She attended classes approximately "three or four" times. (Tr. 394). After she became pregnant, she informed Crossley that she would not be participating in services. Due to her pregnancy, she quit her employment on November 22, 2002. She began working at her job again in June of 2003.

On November 22, 2002, Crossley submitted a voucher for payment of \$1,100.00 for Herron's completion of Job Readiness services. *See State's Ex. 4.* On January 28, 2003, he submitted a voucher for payment in the amount of \$600.00 for Herron's completion of the first level of Job Search, Development & Placement on December 15, 2002; thus, Crossley verified that Herron had retained "24-40 hours per week" of employment for "30 calendar days . . . ." (*See State's Ex. 2.*) He also sought payment in the amount of \$700.00 for Herron's completion—as of January 22, 2003—of the second level of Job Search, Development & Placement.

In December of 2002, Dennis Dahn received a referral for “some training at Catch the Fire.” (Tr. 406). At the time, he was attending college full-time and therefore sent a letter to Catch the Fire, informing them that he “wasn’t going to be able to take any training . . . .” *Id.*

In January of 2003, Crossley arranged a meeting with Dahn. Dahn provided Crossley with his “school information,” after which Crossley “said that would be good enough to meet the criteria for the IMPACT[.]” (Tr. 407). Crossley, however, asked Dahn to “come in once or twice a week” and sign an attendance sheet “[e]ven though [he] was not there.” (Tr. 408).

Dahn “didn’t attend any day at Catch the Fire.” (Tr. 409). Nonetheless, the file maintained by Catch the Fire contained attendance sheets indicating that he had been present. Some of the attendance sheets were for April, May, and June of 2003, even though Dahn did not return to Catch the Fire after March of 2003. His file also contained several employer contact logs, listing the names and addresses of prospective employers, the date contacted, the person contacted, and the results. Dahn “did not contact any of these people.” (Tr. 411). He also did not prepare or receive a resume.

On January 24, 2003, Crossley submitted a voucher and summary for reimbursement in the amount of \$1,100.00. *See* State’s Ex. 4. Crossley verified that Dahn had completed Job Readiness on January 14, 2003.

After getting laid off from her job in November of 2002, Erica Graves née Targo went to Catch the Fire on December 16, 2002, where she filled out the standard forms for clients receiving IMPACT services. She stayed for approximately one hour and never

returned. The documents maintained and submitted by Catch the Fire, however, indicated that she attended classes in May and June of 2003. The documents further indicated that as of July 7, 2003, she was working as a receptionist. She, however, was unemployed on that date. On December 17, 2002, Crossley submitted a voucher for the payment of \$1,100.00 for Job Readiness services purportedly provided to Graves on December 16, 2002. *Id.*

Toya Tucker went to Catch the Fire on August 11, 2003, where she filled out the necessary paperwork to participate in the IMPACT program. She did not receive any job training or attend classes. She did not return to Catch the Fire and did not receive any job referrals from them. Crossley submitted documents verifying that Tucker had completed the Job Readiness training and sought payment in the amount of \$1,100.00. *Id.*

In 2000, Petra Hollis received a referral to Catch the Fire. In 2001, she began working for Catch the Fire as a driver. Initially, she worked twenty-five hours per week for \$5.15 per hour; she did not receive any benefits. She began earning \$7.00 per hour in July of 2001.

Later, Hollis began working in the office, filing paperwork and answering the telephones. She worked thirty hours per week but was paid for twenty-five hours because employees of Catch the Fire were required “to donate an hour each day to the church or [its] daycare . . . .” (Tr. 578). In October of 2002, her paid hours were cut from twenty-five per week to ten per week.

On January 15, 2003, she received a second referral to Catch the Fire. Although she was getting paid for only ten hours per week, a “Billable Placement Report” indicated

that she was working twenty-five hours per week at a rate of \$7.00 per hour. *See* State's Ex. 20. Crossley signed the report on February 4, 2003. Hollis quit working for Catch the Fire in February of 2003, when she obtained other employment.

On January 24, 2003, Crossley submitted a voucher and summary for payment in the amount of \$1,100.00 for Job Readiness services provided to Hollis. *See* State's Ex. 4. According to the voucher, she completed the services on January 21, 2003. On February 7, 2003, Crossley submitted another voucher and summary, seeking payment in the amount of \$600.00 for Job Search, Development & Placement services provided to Hollis. *Id.* According to the summary, she completed those services on January 31, 2003. Completion of the services required "[r]etention for 30 calendar days in employment of 24-40 hours per week . . . ." (State's Ex. 2).

In April of 2004, Terri Mersich and Terri Emsing, Special Investigators with FSSA, began an investigation of Catch the Fire and Crossley after the Lake County Division of Family Resources began receiving complaints from clients. Clients complained they "were not getting the services that they were sent there for [sic]"; "doors were locked when they went" to Catch the Fire; and employees of Catch the Fire "were all just sitting around." (Tr. 153). Furthermore, there were complaints of "double billing." *Id.*

In the course of their investigation, Mersich and Emsing "requested wage histories from the [Department of] Workforce Development on all of the clients that were referred to Catch the Fire for the contract years of 2001 and 2002." (Tr. 153-54). They also



reviewed the documents of 208 clients; conducted in-person interviews of 25 clients; and conducted telephone interviews of other clients.

Of the 25 clients interviewed in person, “14 of them said that they had only gone [to Catch the Fire] for one day . . . [to] fill[] out the initial packet . . . . Three of them said that they had been there . . . for one or two days. Three more said that the maximum time that they had spent there was two to three days.” (Tr. 154). Two of the 25 clients did not “even remember what they did when they were there . . . .” *Id.* Of the clients interviewed by telephone, “91 of those people said that they did not attend Catch the Fire or that they just simply went and filled out paperwork. . . . [A] couple of them said that they had been there just for two days only.” *Id.*

On August 27, 2004, Mersich served Crossley with a subpoena duces tecum for Catch the Fire’s records pertaining to approximately 200 of its clients. Specifically, the subpoena ordered the production of the following:

1. Catch the Fire IMPACT attendance records for 09/29/01 through 09/30/02 and 10/01/02 through 09/30/03 submitted [for] job readiness payment points.
2. Catch the Fire IMPACT transportation plans, child care plans, resumes, budgets, employment marketabilities, pre-tests and post-test records for 09/29/01 through 09/30/02 and 10/01/02 through 09/30/03 submitted for job readiness points.
3. Catch the Fire IMPACT progress notes and client interviews for 09/29/01 through 09/30/02 for mentoring, job shadowing and coaching submitted for payment points.
4. Copies of IMPACT client check stubs for 09/29/01 through 12/29/03 submitted for payment of 30, 60 and 90-day job retention payment points.

5. Copies of IMPACT Referrals from 09/29/01 through 09/30/02 and 10/01/02 through 09/30/03 sent to you by the Lake County Division of Family [Resources].

(State's Ex. 3).

Emsing "compared Catch the Fire's records with the county records" maintained by the Lake County Division of Family Resources. (Tr. 777). She also reviewed the amounts paid to Catch the Fire for services allegedly received by the clients. Based on county records and interviews with clients, she was able to determine that Catch the Fire received improper payments because many clients did not actually receive services.

Emsing determined that Catch the Fire improperly received payment for services purportedly provided to, among others, Johnson, Orndorff, Pete, Simpson, Dahn, Hollis, Kroll, Laban, Herron, Targo, and Tucker. She further determined that Catch the Fire had received improper payments in the amounts of \$57,000.00 and \$54,000.00 under the 2001 Contract and 2002 Contract, respectively, for services allegedly provided to other clients. She determined the payments were inappropriate because Catch the Fire did not have adequate documentation of the clients receiving services or the documentation itself indicated that the services had not been provided.

On June 23, 2005, the State charged Crossley with class C felony welfare fraud, namely "knowingly or intentionally obtain[ing] public relief or assistance in an amount greater than [\$2,500.00] by means of false or misleading oral or written statement or other fraudulent means[.]" (App. 11). The trial court commenced a six-day jury trial on December 3, 2007, after which the jury found Crossley guilty as charged.

Following a sentencing hearing on January 16, 2008, the trial court sentenced Crossley to three years and ordered him to pay restitution in the amount of \$127,900.00. Crossley tendered restitution on January 18, 2008.

Additional facts will be provided as necessary.

## DECISION

### 1. Sufficiency of the Evidence

Crossley asserts that the evidence was insufficient to support his conviction. Specifically, he argues that he “did not manifest the intent to commit welfare fraud.” Crossley’s Br. at 16.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder’s role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court’s ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

*Drane v. State*, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

To prove the offense of class C felony welfare fraud, the State was required to show that Crossley knowingly or intentionally “obtain[ed] public relief or assistance by means of impersonation, fictitious transfer, false or misleading oral or written statement, fra[u]dulent conveyance, or other fraudulent means” in an amount greater than \$2,500.00. I.C. § 35-43-5-7. Pursuant to Indiana Code section 35-41-2-2, “[a] person engages in

conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so,” while “[a] person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.”

“[I]ntent is a mental function and without a confession, it must be determined from a consideration of the conduct, and the natural consequences of the conduct.” Accordingly, intent may be proven by circumstantial evidence. Further, [i]ntent may be inferred from a defendant’s conduct and the natural and usual sequence to which such conduct logically and reasonably points. The trier of fact is entitled to infer intent from the surrounding circumstances.

*Hayworth v. State*, 798 N.E.2d 503, 508 (Ind. Ct. App. 2003) (citations omitted).

Here, the evidence shows that a well-educated Crossley personally negotiated and entered into the 2001 and 2002 contracts with the State to provide services under the IMPACT program. The contracts clearly set forth the requirements for payment of those services. Further, Crossley received training on how and when a service provider could bill the State for services provided. He personally submitted and signed vouchers for payment to the Lake County Division of Family Resources, certifying that the amounts were “legally due[.]” (State’s Exs. 4, 5).

The supporting documentation submitted by Crossley to the Lake County Division of Family Resources and contained in Catch the Fire’s files indicated that the clients had completed the services. The record reveals, however, that many clients did not receive or complete the requisite services—services for which Catch the Fire collected payments. The supporting documentation also included several documents, which although purportedly completed by the individual client, had not been.

Given the evidence presented, the jury could infer that Crossley knowingly or intentionally collected payments in excess of \$2,500.00 by presenting false or misleading statements. We therefore find the evidence sufficient to sustain Crossley's conviction.

## 2. Sentencing

Crossley asserts the trial court erroneously sentenced him to three years.<sup>4</sup> Specifically, he argues that the trial court abused its discretion when it sentenced him to three years as a message and that his sentence is inappropriate pursuant to Indiana Appellate Rule 7(B).

### a. *Sentence as a message*

Crossley argues that the trial court abused its discretion in sentencing him to three years with no time suspended as a message to him and those like him. We disagree.

We review a trial court's sentencing decision for an abuse of discretion. *Edmonds v. State*, 840 N.E.2d 456, 461 (Ind. Ct. App. 2006), *trans. denied, cert. denied*, 127 S. Ct. 497 (2006). “[A] trial judge's desire to send a personal philosophical or political message is not a proper reason to aggravate a sentence.” *Nybo v. State*, 799 N.E.2d 1146, 1152 (Ind. Ct. App. 2003).

The trial court stated, in pertinent part, as follows:

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<sup>4</sup> Subsequent to the date of Crossley's offense and prior to the date of his sentencing, the legislature amended Indiana Code section 35-50-2-6 to provide for an “advisory” rather than a “presumptive” sentence. See P.L. 71-2005, § 7 (eff. Apr. 25, 2005). As Crossley committed his offense prior to the amendment, we shall analyze the propriety of his sentence under the presumptive sentencing scheme. Pursuant to the former sentencing scheme, the statutory sentencing range for a class C felony was two to eight years, with the presumptive sentence being a fixed term of four years. I.C. § 35-50-2-6. We note, however, that Crossley's counsel argues his sentence under the advisory sentencing scheme.

I do believe that an appropriate sentence for you given the mitigating factors that I mentioned, the aggravating factors are—really the lone aggravating factor is the amount of money that you defrauded . . . . The other factors that I mentioned are largely the nature and circumstances of the crime committed, but it is the nature and circumstances of the crime committed that really affects this sentence consideration. [The] [a]ppropriate sentence for you . . . is three years in the Department of Correction, none of which is to be suspended. I reject the notion that you should be put on probation. I think that this is a statement sentence that should impact you or those who come after you. I think that probation would be inappropriate. Not because you will do bad on probation but because I believe that the clear message is to punish you for what you've done wrong in this case. . . . I believe that the mitigating factors that I've noted are significant. The aggravating factor is significant. You are receiving essentially a sentence below the . . . presumptive sentence of four years. But I also believe that imposing a prison sentence, that any further reduction or suspension of the sentence certainly would depreciate the seriousness of the crime committed.

(Sentencing Tr. 55-57) (Emphasis added).

In this case, however, the trial court did not sentence Crossley to an enhanced sentence. Rather, Crossley received a mitigated sentence. We therefore find no abuse of discretion.

b. *Inappropriate sentence*

Crossley also argues that his sentence is inappropriate in light of the nature of his offense and his character. He “urges that the minimum sentence of 2 years was the appropriate sentence along with a suspended term of years and probation.” Crossley’s Br. at. 20.

We may revise a sentence authorized by statute if it is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). It is the defendant’s burden to “persuade the appellate court that his or her sentence has met th[e]

inappropriateness standard of review.’” *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007) (quoting *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)), *clarified on reh’g*, 875 N.E.2d 218 (Ind. 2007).

The “nature of the offense” refers to the statutory presumptive (now advisory) sentence for the class of crimes to which the offense belongs. *Pennington v. State*, 821 N.E.2d 899, 903 (Ind. Ct. App. 2005). Thus, the presumptive (advisory) sentence is meant to be the starting point for the trial court’s consideration of the appropriate sentence for the particular crime or crimes committed. *Id.* The “character of the offender” refers to the sentencing considerations in Indiana Code section 35-38-1-7.1, which contains general sentencing considerations, the balancing of aggravating and mitigating circumstances, and other factors within the trial court’s discretion. *Id.*

The record shows that Crossley has no prior criminal history and has numerous supporters. He, however, also defrauded the State over a period of at least two years, for an amount in excess of \$100,000.00; further, he failed the very people he was supposed to help by not offering or providing essential services to them. These facts justify Crossley’s sentence. Furthermore, the sentence was for less than the maximum he could have received, and in fact, was one year less than the presumptive. Accordingly, we find his sentence to be appropriate.

Affirmed.

FRIEDLANDER, J., and BARNES, J., concur.