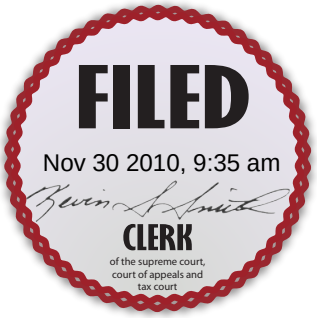

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IN THE
COURT OF APPEALS OF INDIANA

DEWAYNE V. ADAMSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 53A01-1002-CR-88
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MONROE CIRCUIT COURT
The Honorable Kenneth G. Todd, Judge
Cause No. 53C03-0808-FA-716

November 30, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

DeWayne Adamson appeals his fifty-year sentence for Class B felony possession of a firearm by a serious violent felon ("SVF charge") and the finding that he is an habitual offender. We affirm.

Issue

The sole issue for review is whether Adamson's sentence is inappropriate.

Facts

On August 6, 2008, the Monroe County Sheriff's Department received a report from Adamson's ex-girlfriend claiming that he and a friend had abducted her, sexually and physically assaulted her, and fired a gun at her. Later that day, Adamson was arrested on an alleged probation violation and his residence was searched, and officers found a loaded AK-47. Adamson has several prior felony convictions, including a 2001 conviction for Class B felony criminal confinement.

On August 12, 2008, the State charged Adamson with Class A felony rape, Class B felony criminal confinement, and the SVF charge. The State subsequently filed two amended informations, and Adamson ultimately stood charged with six counts of Class A felony criminal deviate conduct, Class B felony carjacking, Class B felony criminal confinement, Class C felony intimidation, two counts of Class D felony criminal recklessness, Class D felony strangulation, Class A felony attempted murder, and the Class B felony SVF charge. The State also alleged that Adamson was an habitual offender.

On October 7, 2009, Adamson pled guilty to the SVF charge and to being an habitual offender. The State agreed to dismiss the remaining charges. It is unclear precisely why the State did not wish to pursue the charges on any of the more serious allegations against Adamson, although there are suggestions in the record that the alleged victim did not want to testify against him.

In speaking with the probation officer preparing the presentence report, Adamson said that he did not own the AK-47 but merely was in possession of it in order to clean it for an unidentified friend. However, during Adamson's sentencing hearing on December 18, 2009, the State presented evidence that during the summer of 2008, Adamson frequently carried the AK-47, including ammunition, with him in a duffle bag wherever he went. Adamson also had told people that he traded a TV for the weapon. Finally, Adamson had told an acquaintance that he carried the gun with him because "if he ever got trouble with law enforcement again that they wouldn't take him back to prison." Tr. p. 36.

The trial court sentenced Adamson to twenty years for the SVF conviction, enhanced by thirty years for the habitual offender admission, for a total of fifty years. Adamson sought and obtained permission to file this belated appeal.

Analysis

Adamson argues only that his sentence is inappropriate under Indiana Appellate Rule 7(B) in light of his character and the nature of the offense. Although Rule 7(B) does not require us to be "extremely" deferential to a trial court's sentencing decision, we still

must give due consideration to that decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. "Additionally, a defendant bears the burden of persuading the appellate court that his or her sentence is inappropriate." Id.

The principal role of Rule 7(B) review "should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived 'correct' result in each case." Cardwell v. State, 895 N.E.2d 1219, 1225 (Ind. 2008). We "should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count." Id. Whether a sentence is inappropriate ultimately turns on the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case. Id. at 1224.

Regarding Adamson's character, his criminal history consists of four convictions for theft, one for forgery, and one for criminal confinement. The confinement conviction occurred in 2001 and Adamson had been out of prison for that offense for only a few months when he obtained and began carrying an AK-47 on a regular basis. Adamson also has juvenile delinquency adjudications for burglary and auto theft. He also has violated probation on several previous occasions. In fact, it appears Adamson has had nearly constant interaction with the criminal justice system since 1983, when he was sixteen years old.

Adamson did plead guilty to this offense and to being an habitual offender, and it is true that a guilty plea in many or most cases is entitled to mitigating weight when considering an appropriate sentence. See Marlett v. State, 878 N.E.2d 860, 866 (Ind. Ct. App. 2007), trans. denied. Additionally, the fact that the State here dismissed a number of charges against Adamson as a result of the guilty plea does not necessarily deprive it of any mitigating weight, especially as it seems uncertain that the alleged victim was willing to cooperate in the prosecution. See id. at 866-67. Still, a guilty plea may not have significant mitigating weight if it appears the plea does not truly reflect the defendant's acceptance of responsibility or if it is merely a pragmatic decision. Anglemyer v. State, 875 N.E.2d 218, 221 (Ind. 2007).

In discussions with the probation officer preparing the presentence report, Adamson attempted to minimize his culpability with respect to possession of the AK-47. At the sentencing hearing, the State presented evidence directly contradicting that attempt. The trial court clearly credited the State's evidence when it issued its sentencing statement and rejected Adamson's claim that he was accepting full responsibility for his conduct. This is similar to a situation in which a trial court rejects a defendant's claim of remorse, which is a highly fact-sensitive determination. See Corralez v. State, 815 N.E.2d 1023, 1025 (Ind. Ct. App. 2004). We conclude Adamson has failed to establish that his guilty plea reflected true and complete acceptance of responsibility on his part, as opposed to being a merely pragmatic decision; thus, we decline to give it significant mitigating weight in assessing his character.

With respect to the nature of the offense, there are indications that Adamson's conduct was much more egregious than what might be considered an "ordinary" SVF charge. The evidence presented by the State was that Adamson was not merely attempting to clean the gun for a friend. Instead, Adamson regularly carried the weapon, including ammunition, with him wherever he went during the summer of 2008. In fact, the weapon was loaded when police found it at Adamson's residence. Additionally, the AK-47 is a semi-automatic assault rifle, not a small handgun, or a collector's piece, or a legitimate hunting weapon. There had been an attempt, though unsuccessful, to convert the AK-47 into a fully automatic, military-style weapon that could not have been purchased by the public. Moreover, Adamson made a statement implying that he intended to use the AK-47 in a shootout with law enforcement if they ever attempted to apprehend him for any reason. Simply put, it is highly troubling that a convicted felon with a grudge against law enforcement was carrying with him wherever he went, for several months, a highly-dangerous weapon and ammunition.

We recognize that the trial court imposed the maximum possible sentence against Adamson. Such sentences generally are reserved for the "worst" offenders and offenses. Buchanan v. State, 767 N.E.2d 967, 973 (Ind. 2002). This refers, however, only to a general class of offenses and offenders that warrant maximum punishment, as it is always possible to "hypothesize a significantly more despicable scenario." Id. We conclude that Adamson and his offense fall into the "worst" class, given his nearly-constant interaction with the criminal justice system over the last twenty-seven years, his seemingly obsessive

possession of a very powerful firearm and ammunition for several months, and his stated reason for having the weapon.

Conclusion

Adamson's fifty-year sentence is not inappropriate in light of his character and the nature of the offense. We affirm.

Affirmed.

FRIEDLANDER, J., and CRONE, J., concur.