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**IN THE
COURT OF APPEALS OF INDIANA**

ERICA WILLIAMS-DARDEN,)

Appellant-Defendant,)

vs.)

No. 71A03-1005-CR-268

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable John M. Marnocha, Judge
Cause No. 71D02-0912-FD-01259

December 7, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Erica Williams-Darden appeals the sentence imposed after she pleaded guilty to Theft,¹ a class D felony, and Battery,² a class B misdemeanor. Williams-Darden argues that the aggregate three-year sentence imposed by the trial court is inappropriate in light of the nature of the offenses and her character. Finding that the sentence is not inappropriate, we affirm.

On December 18, 2009, Patrick Zimmer, a Wal-Mart loss prevention officer, observed Williams-Darden pull Wal-Mart bags out of her purse and stuff clothes and alcohol in them. When Williams-Darden bypassed the checkout registers and was attempting to exit the store without paying for the items in the bags, Zimmer stopped her and identified himself as a loss prevention officer. Williams-Darden began yelling and struck Zimmer with her elbow.

On December 21, 2009, the State charged Williams-Darden with class D felony theft and class B misdemeanor battery. The State later added a count alleging her to be a habitual offender. On March 11, 2010, Williams-Darden appeared for trial and moved to dismiss the habitual offender allegation. The trial court granted the motion, and Williams-Darden then pleaded guilty to the remaining two charges. On April 13, 2010, the trial court sentenced Williams-Darden to three years for theft and 180 days for battery, with the sentences to run concurrently. Williams-Darden now appeals.

¹ Ind. Code § 35-43-4-2.

² Ind. Code § 35-42-2-1.

Williams-Darden's sole argument on appeal is that the aggregate three-year sentence imposed by the trial court is inappropriate in light of the nature of the offense and her character. In reviewing a Rule 7(B) appropriateness challenge, 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 us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Here, the trial court imposed the maximum three-year term for her class D felony conviction. Ind. Code § 35-50-2-17 (providing that a sentence for a class D felony conviction may be six months to three years, with an advisory term of one and one-half years).

As for the nature of the offense, Williams-Darden entered Wal-Mart prepared to commit theft. She brought Wal-Mart shopping bags in her purse and placed the items she intended to steal inside the bags, evidently hoping that the bags would enable her to escape detection when exiting the store. When stopped by Zimmer on her way out of the store, Williams-Darden began yelling and struck Zimmer with her elbow.

As for her character, the record reveals that Williams-Darden has a lengthy and substantial criminal history. Between 1990 and the present, Williams-Darden has been convicted of six felonies—including burglary, possession of cocaine, and prostitution—and thirteen misdemeanors—including resisting law enforcement and criminal conversion. She has also had multiple probation violations. Furthermore, Williams-Darden began using alcohol and marijuana when she was thirteen years old and cocaine when she was eighteen years old. She has undergone substance abuse treatment multiple

times in the past, with none of the treatment attempts wholly successful. Williams-Darden's criminal history and decades-long substance abuse reveals a lack of respect for the rule of law and her fellow citizens. Under these circumstances, we find that the aggregate three-year sentence imposed by the trial court is not inappropriate.

The judgment of the trial court is affirmed.

VAIDIK, J., and BARNES, J., concur.