

STATEMENT OF THE CASE

Appellant-Defendant, Chester L. Triplett (Triplett), appeals his sentence following a plea of guilty to dealing in cocaine, a Class B felony, Ind. Code § 35-48-4-1.

We affirm.

ISSUE

Triplett raises one issue on appeal, which we restate as follows: Whether his sentence is appropriate in light of his character and the nature of his offense.

FACTS AND PROCEDURAL HISTORY

Around 11:30 a.m. on November 22, 2006, Triplett met with a confidential informant in Gary, Indiana. During this meeting, Triplett sold the confidential informant two plastic bags of cocaine and told the informant that he also had additional bags available. Officers of the Gary Police Department were conducting surveillance in the area, and they observed Triplett give the informant the two plastic bags in exchange for money.

On July 22, 2009, the State filed an Information charging Triplett with dealing in cocaine, a Class B felony, I.C. § 35-48-4-1. On November 19, 2009, the State and Triplett filed a plea agreement with the trial court, which stated that Triplett would receive a maximum sentence of twelve years. Otherwise, the agreement left the sentencing up to the trial court's discretion. On December 17, 2009, the trial court accepted Triplett's plea agreement and sentenced him to ten years, with two years to be suspended and two years to be served on probation. The trial court additionally ordered that Triplett serve this sentence consecutively to a sentence in another cause.

As aggravating factors, the court noted (1) that Triplett had a history of juvenile adjudications and felony convictions; and (2) that Triplett violated the terms of his probation when he dealt cocaine in the instant offense. As a mitigating factor, the trial court recognized that Triplett admitted his guilt by way of a plea agreement.

Triplett now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. Standard of Review

Triplett argues that his sentence is inappropriate in light of his character and the nature of his offense. Under Indiana Appellate Rule 7(B), this court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender. *Childress v. State*, 848 N.E.2d 1073, 1079-80 (Ind. 2006). Although this court is not required to use "great restraint," we nevertheless exercise deference to a trial court's sentencing decision, both because Appellate Rule 7(B) requires that we give "due consideration" to that decision and because we recognize the unique perspective a trial court has when making decisions. *Stewart v. State*, 866 N.E.2d 858, 865-66 (Ind. Ct. App. 2007). The "principal role of appellate 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). In addition, the defendant bears the burden of persuading this court that his sentence is inappropriate. *Childress*, 848 N.E.2d at 1080.

II. *Propriety of Triplett's Sentence*

With respect to the character of the offender, Triplett argues that this court should reduce his sentence because he has admitted his guilt and accepted responsibility for his actions. He also argues that he was gainfully employed as a newspaper delivery person at the time of the arrest, which indicates that he was attempting to get his life back together. Finally, he contends that his two children and his fiancé will suffer extreme hardship if he is incarcerated for eight years.

We are sympathetic to these circumstances; however, we find the circumstances of Triplett's criminal history too troubling to justify a reduction in his sentence. Triplett has multiple juvenile adjudications and one adult felony conviction. In addition, his felony conviction was for another drug-related offense. He violated the terms of his probation for that offense when he committed the current drug-related offense. As the trial court stated, "What I find especially damning about your case is that, as the State points out, you were on probation already and then you caught this case. So, you'd already been given a break by the court you were sent to...[a]nd you couldn't even finish probation before you were out there dealing." (Transcript p. 32). Based on these circumstances, we cannot conclude that the trial court improperly judged Triplett's character.

Turning to the nature of the offense, Triplett argues that we should reduce his sentence because he did not sell a substantial quantity of cocaine. This court disagrees. It is enough that Triplett admits he sold cocaine, which is a serious offense. Dealing in cocaine is a Class B felony that carries a minimum sentence of six years, a maximum sentence of twenty years,

and an advisory sentence of ten years. I.C. § 35-50-2-5. If Triplett had proceeded to trial, the trial court could have sentenced him to the maximum sentence of twenty years. Instead, the trial court here sentenced him to ten years, which is equal to the advisory sentence for a Class B felony and two years less than the amount Triplett agreed to potentially serve in his plea agreement. In addition, two years of Triplett's sentence are suspended. In light of these circumstances, we cannot say that the trial court inappropriately sentenced Triplett according to the nature of his offense.

CONCLUSION

Based on the foregoing, we conclude that the trial court properly sentenced Triplett.

Affirmed.

ROBB, J., and BROWN, J., concur.