



## *STATEMENT OF THE CASE*

James S. Furnifur appeals the sentence imposed after he pleaded guilty to criminal recklessness and theft, both Class D felonies. We affirm.

## *ISSUE*

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

## *FACTS AND PROCEDURAL HISTORY*

On February 28, 2007, Furnifur and Matt Spicker drove to Deep River Park in Lake County so that Spicker could purchase cocaine from Timothy Bennett. When Bennett arrived at the park, Furnifur noticed that Bennett's passenger was Dale Wilson, the former spouse of Furnifur's wife, Theresa, and the father of her children. Furnifur disliked Wilson because he refused to pay child support and had stolen Theresa's car and sold it.

When Furnifur saw Wilson, Furnifur became very angry. He walked over to Bennett's car and told Wilson to exit the car. When Wilson complied, Bennett hit Wilson in the head several times with his fist, causing a deep laceration to the corner of Wilson's eye. Furnifur also took Wilson's money and drove away in Bennett's car, leaving an injured Wilson and Bennett in the park.

The State charged Furnifur with Class B felony robbery for stealing Wilson's money during the beating and Class B felony carjacking for taking Bennett's car by threat of force. Furnifur eventually pleaded guilty to Class D felony criminal recklessness for

beating and inflicting serious bodily injury on Wilson as well as Class D felony theft of the vehicle. Pursuant to the terms of the plea agreement, both of the Class B felonies were dismissed.

Evidence presented at the sentencing hearing revealed that Furnifur had been on probation more than ten times and had been placed in work release twice. He was out on bond when he committed the offenses in the present case. The trial court noted at the hearing that Furnifur's criminal history spanned thirteen years and included convictions for battery, domestic battery, and resisting law enforcement, as well as numerous alcohol-related offenses. Further, the court noted that Furnifur had "been given ample opportunity to reform his life and continues to commit crimes. Prior leniency has not deterred the defendant's criminal behavior." Transcript at 21.

At the end of the hearing, the trial court sentenced Furnifur to two years on each count, sentences to run consecutively, for a total sentence of four years. In its written sentencing order, the court explained that it was ordering consecutive sentences because there were two victims and two separate crimes. Furnifur appeals his sentence.

#### *DISCUSSION AND DECISION*

Furnifur's sole argument is that his sentence is inappropriate. Pursuant to Ind. Appellate Rule 7(B), this court has the constitutional authority to revise a sentence 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 defendant. This court's review under Appellate Rule 7(B) is deferential to the trial court's decision. *Dixon v. State*, 825 N.E.2d 1269, 1271 (Ind. Ct. App. 2005), *trans. denied*.

Here, with regard to the nature of the offense, during a drug transaction, Furnifur hit Wilson in the head several times with his fist, causing a deep laceration to Wilson's eye. Furnifur also drove away in Bennett's car, leaving Bennett and an injured Wilson in the park in the middle of the winter.

With regard to the character of the offender, Furnifur has a criminal history spanning thirteen years that includes convictions for battery, domestic battery, and resisting law enforcement. He has also been on probation ten times and was out on bond at the time of the offenses in this case. The significance of criminal history as a sentencing consideration varies based upon the gravity, nature, and number of prior offenses as they relate to the current offense. *Wooley v. State*, 716 N.E.2d 919, 933, n. 3 (Ind. 1999). Here, Furnifur's criminal history shows an escalating history of violence. Furnifur's probation violations also show that less restrictive measures have been unsuccessful. Based upon the foregoing, Furnifur's sentence in this case is not inappropriate.

#### *CONCLUSION*

Furnifur's sentence is not inappropriate.

Affirmed.

KIRSCH, J., and RILEY, J., concur.