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IN THE
COURT OF APPEALS OF INDIANA

MICHAEL A. ANKROM,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 17A05-0909-CR-548
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE DEKALB SUPERIOR COURT
The Honorable Kevin P. Wallace, Judge
Cause No. 17D01-0812-FD-277

February 15, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary and Issue

Michael A. Ankrom appeals his eighteen-month sentence following his guilty plea to class D felony possession of methamphetamine, arguing that it is inappropriate in light of the nature of the offense and his character. We affirm.

Facts and Procedural History

On December 3, 2008, Ankrom was stopped by a police officer for speeding and improper passing. The police discovered that he had a small amount of methamphetamine and a straw used in smoking methamphetamine.

On December 11, 2008, the State charged Ankrom with class D felony possession of methamphetamine,[1] class A misdemeanor possession of paraphernalia,[2] and driving to the left side of the roadway when prohibited, an infraction.[3] Ankrom entered into a plea agreement with the State wherein he pled guilty to possession of methamphetamine and possession of paraphernalia and left sentencing to the trial court's discretion with no recommendation from the State. On July 22, 2009, the trial court accepted Ankrom's guilty plea and sentenced him to concurrent terms of one and one-half years for possession of methamphetamine and one year for possession of paraphernalia, fully executed.

[1] Ind. Code § 35-48-4-6.1(a).

[2] Ind. Code § 35-48-4-8.3(a).

[3] Ind. Code § 9-21-8-8(b).

Discussion and Decision

Ankrom contends that his sentence for possession of methamphetamine is inappropriate and requests that we either reduce his sentence or suspend part of it to probation. Article 7, Section 6 of the Indiana Constitution authorizes this Court to independently review and revise a sentence imposed by the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218. Indiana Appellate Rule 7(B) states, "The 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." "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Purvis v. State*, 829 N.E.2d 572, 587 (Ind. Ct. App. 2005) (internal citations omitted), *trans. denied*. The defendant bears the burden of persuading us that the sentence is inappropriate. *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007).

In addition, we note that "it will be quite difficult for a defendant to prevail on a claim that the placement of his sentence is inappropriate." *Fonner v. State*, 876 N.E.2d 340, 343 (Ind. Ct. App. 2007). This is because "the question under Appellate Rule 7(B) is not whether another sentence is *more* appropriate; rather, the question is whether the sentence imposed is inappropriate." *Id*. at 344 (emphasis in original). "A defendant challenging the placement of a sentence must convince us that the given placement is itself inappropriate." *Id.*

"[R]egarding the nature of the offense, the advisory sentence is the starting point our legislature has selected as an appropriate sentence for the crime committed." *Anglemyer*, 868 N.E.2d at 494. The advisory sentence for a class D felony is one and one-half years, with a fixed term of between six months and three years. Ind. Code § 35-50-2-7. Ankrom received the advisory sentence. As for the nature of Ankrom's offense, he possessed "a small quantity" of methamphetamine. Appellant's App. at 48. Ankrom asserts that the facts giving rise to his conviction were "less egregious than many situations resulting in the same conviction" and support a reduced sentence. Appellant's Br. at 10. We are unpersuaded. Although the circumstances supporting his conviction would not sustain an enhanced sentence, the simple fact that he had a small quantity of methamphetamine does not justify a reduced sentence.

As to Ankrom's character, he argues that his youth, lack of adult convictions, and acceptance of responsibility warrant a lesser sentence. When Ankrom committed the instant offense, he had turned eighteen just over three months before. Thus, while it is true that he was young, his age deprives his lack of an adult criminal history of any significant meaning. Simply put, he had not had much time to commit adult crimes. Nevertheless, his juvenile history indicates that he has been unable to conduct himself in conformance with society's rules.

His first juvenile adjudication resulted from an incident in 2003 when he was thirteen. Ankrom pushed another child off his bicycle and was subsequently belligerent, loud, and rude to the police after they were called to investigate. After asking Ankrom several times to

be quiet, the police officer arrested him for disorderly conduct. He was adjudicated a delinquent for disorderly conduct, a class B misdemeanor if committed by an adult, and placed on formal supervised probation.

In 2004, Ankrom violated his probation by committing criminal mischief, a class A misdemeanor if committed by an adult, and the juvenile court ordered him to serve fourteen days at the Youth Services Center. In early 2005, Ankrom's probation was revoked after he admitted to possession of marijuana, a class A misdemeanor if committed by an adult. The State also filed criminal charges against Ankrom for possession of marijuana. He admitted to the allegation, and he was committed to the Indiana Department of Correction. His commitment was suspended to formal supervised probation with the requirement that he complete the Black Lake Lodge Short Term Program. He completed the program as required and was released on probation to home-based services.

In August 2005, Ankrom violated his probation by taking his father's vehicle without permission, being truant from school, smoking marijuana, and not cooperating with his home-based services. The juvenile court ordered him to the Gateway Woods Children's Home Detention. Ankrom left Gateway for several days without permission and had to be placed in secure detention. He was thereafter returned to Gateway, and on June 1, 2006, he was released on ninety-day probation. He successfully completed probation. However, within months of the termination of his probation, the State filed another delinquency petition against him alleging that he committed class D felony theft and class A misdemeanor resisting law enforcement. He admitted to the theft allegation and was committed to the

Indiana Department of Correction. Six months later, on July 25, 2007, he was released and placed back on probation. He was released satisfactorily from probation on February 9, 2008, after receiving his General Educational Development (GED) diploma.

On August 4, 2008, the State filed a delinquency petition against Ankrom alleging minor consuming an alcoholic beverage, resisting law enforcement, and public intoxication. Ankrom admitted to the allegations and was ordered to remain in secure detention until his eighteenth birthday. He was released on August 28, 2009, and committed the instant offense within months. We note that although Ankrom has sometimes completed probation successfully, his offenses have become progressively more severe. Although we recognize that Ankrom pled guilty, based on his juvenile history, we cannot say that the imposition of the advisory sentence, fully executed, is inappropriate.

Affirmed.

RILEY, J., and VAIDIK, J., concur.