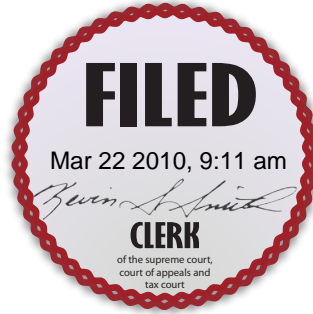


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

GORDON WALKER,)
)
Appellant-Defendant,)
)
vs.) No. 17A05-0908-CR-452
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE DEKALB SUPERIOR COURT
The Honorable Kevin P. Wallace, Judge
Cause No. 17D01-0707-FD-118

March 22, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Gordon Walker pleaded guilty to theft¹ as a Class D felony and was given a three-year executed sentence. He appeals, raising the following issue: whether his sentence was inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

On July 7, 2007, Walker took a window air conditioning unit from the Wal-Mart store in Auburn, Indiana. He attempted to remove the unit from the store without paying for it, but was stopped by the store's loss prevention officers. The value of the air conditioning unit was approximately \$240.00. The State charged Walker with theft as a Class D felony. On June 24, 2009, Walker pleaded guilty to the crime as charged pursuant to a written plea agreement, and in exchange, the State agreed not to file a habitual offender enhancement. Sentencing was left to the discretion of the trial court.

Walker was forty-seven years old at the time of the present offense and had a criminal history that spanned thirty years and included arrests and convictions for a variety of offenses in several different states. The instant offense was his first conviction in Indiana. On July 22, 2009, the trial court accepted Walker's plea agreement and sentenced him to three years executed. Walker now appeals.

DISCUSSION AND DECISION

Appellate courts may revise a sentence after careful review of the trial court's decision if they conclude that the sentence is inappropriate based on the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). Even if the trial

¹ See Ind. Code § 35-43-4-2.

court followed the appropriate procedure in arriving at its sentence, the appellate court still maintains a constitutional power to revise a sentence it finds inappropriate. *Hope v. State*, 834 N.E.2d 713, 718 (Ind. Ct. App. 2005).

Walker argues that his three-year executed sentence was inappropriate in light of the nature of the offense and his character. Specifically, he contends that there was nothing remarkable about the nature of his offense that justified the maximum sentence, especially since the stolen merchandise was immediately recovered and the victim suffered no loss. As to his character, Walker asserts that, although he had several felony convictions, many of the convictions occurred in or before 1984 and therefore did not warrant the imposition of the maximum sentence.

Although there was nothing particularly egregious about the nature of the offense in the present case, a review of his character shows that Walker had an extensive criminal history, which consisted of over twenty convictions for both misdemeanors and felonies. This criminal history spanned over thirty years and included several different states. Therefore, even though several of Walker's convictions occurred in the 1980s, his record of convictions has continued to the present and shows that his past convictions have not deterred him from continuing to commit crimes.

Walker also had many additional arrests, for which no disposition was known. "When evaluating the character of an offender, a trial court may consider the offender's arrest record in addition to actual convictions." *Johnson v. State*, 837 N.E.2d 209, 218 (Ind. Ct. App. 2005), *trans. denied* (2006). "[A] record of arrests, particularly a lengthy one, may reveal that a defendant has not been deterred even after having been subject to

the police authority of the State.”” *Id.* (quoting *Cotto v. State*, 829 N.E.2d 520, 526 (Ind. 2005)). After considering Walker’s extensive criminal history and his history of arrests, we conclude that his three-year sentence was not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

DARDEN, J., and MAY, J., concur.