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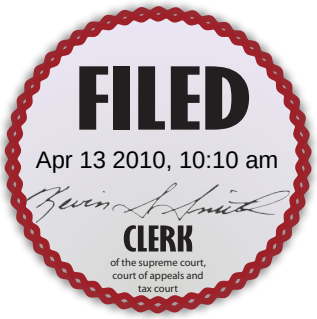

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IN THE
COURT OF APPEALS OF INDIANA

PATIN EARL HARRIS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 53A04-0912-CR-702
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MONROE CIRCUIT COURT
The Honorable Mary Ellen Diekhoff, Judge
Cause No. 53C05-0611-FD-00661
53C05-0701-FC-00067

APRIL 13, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Patin Earl Harris appeals the sentence imposed for burglary, a Class C felony; theft, a Class D felony; and his adjudication as a habitual offender. We affirm.

ISSUE

Harris raises one issue for our review, which we restate as: Whether the sentence imposed was inappropriate in light of the nature of the offense and the character of the offender.

FACTS AND PROCEDURAL HISTORY

In October of 2006, Harris twice broke into Campus Laundry East and stole money from vending machines. The following month, Harris again broke into machines at the laundry. During a search incident to the arrest on these two incidents, police officers recovered a burnt glass pipe (drug paraphernalia) from Harris's pocket.

On November 20, 2006, the State charged Harris, under Cause No. 53C05-0611-FD-661 ("Cause No. 661"), with theft, a Class D felony; criminal mischief, a Class D felony; and possession of paraphernalia, a Class A misdemeanor. The State also charged Harris with being a habitual offender under Cause No. 661. On January 19, 2007, the State charged Harris, under Cause No. 53C05-0701-FC-67 ("Cause No. 67"), with theft, a class D felony and two counts of burglary, Class C felonies.

The trial court subsequently conducted a consolidated proceeding during which Harris pled guilty, under Cause No. 661, to theft, a Class D felony, and to being a habitual offender. Harris also pled guilty, under Cause No. 67, to burglary, a Class C felony. The remaining charges were dismissed under both cause numbers. The State and Harris agreed that Harris would participate in the Monroe County Drug Treatment Court Program ("the drug treatment program") and, if he completed the drug treatment program, the charges pled to would be dismissed. The State and Harris also agreed that if Harris failed to complete the drug treatment program, sentencing would be left to the trial court.

Harris was terminated from the drug treatment program in April of 2008 after numerous violations of its terms. The trial court accepted the plea agreement and, after citing Harris's criminal history, sentenced Harris to maximum terms of three years for theft, four and one half years for the habitual offender finding, and eight years for burglary, all to be served consecutively. Harris now appeals.

DISCUSSION AND DECISION

Harris contends that the fifteen and one half year sentence is inappropriate because he pled guilty and was starting to show progress in turning his life around at the time of sentencing. A sentence authorized by statute will not be revised unless the sentence is inappropriate in light of the nature of the offense and the character of the offender. Indiana Appellate Rule 7(B); *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). In determining the appropriateness of a sentence, a court of review may consider any factors

appearing in the record. *Roney v. State*, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), *trans. denied.* The "nature of the offense" portion of the appropriateness review concerns the advisory sentence for the class of crimes to which the offense belongs; therefore, the advisory sentence is the starting point in the appellate court's sentence review. *Anglemyer, clarified on rehearing,* 875 N.E.2d 218 (Ind. 2007). The "character of the offender" portion of the sentence review involves consideration of the aggravating and mitigating circumstances and general considerations. *Williams v. State*, 840 N.E.2d 433, 439-40 (Ind. Ct. App. 2006).

The nature of the offenses committed by Harris does not warrant the maximum sentences. However, our review does not stop here. A review of Harris's character discloses three juvenile adjudications for theft and burglary and four probation violations as a juvenile. As an adult, Harris amassed three misdemeanor and eight prior felony convictions. Several of these were for theft, conversion, or burglary. He violated probation on six occasions as an adult, as well as violating parole on a single occasion. This history does not include the instant offenses.

In addition, several violations of the drug treatment program were filed against Harris for continued use of cocaine and marijuana. He also absconded from the program, failing to return.

Clearly, the State has demonstrated that previous interventions have failed, and Harris has shown a propensity to commit crimes of burglary and theft. Given Harris's

character, the trial court's imposition of maximum, consecutive sentences was not inappropriate.

Harris argues that his guilty plea shows that the sentence imposed was not warranted. However, a guilty plea does not warrant significant consideration if the defendant received a substantial benefit in exchange for the plea. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied.* The guilty plea bestowed a tremendous benefit on Harris, and we do not see how the pragmatic decision to plead guilty renders the imposed sentence inappropriate.

Harris also argues that a consideration of his character should include his recent progress in getting free of his drug dependency and his attempts to help his mother care for his diabetic father and two nieces who were adopted by Harris's mother. Our review of the record discloses that the testimony about the progress and the offered help is terse and sketchy. It is not sufficient to convince us that the imposed sentence is inappropriate.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.