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IN THE
COURT OF APPEALS OF INDIANA

WILLIAM H. CARNAHAN, JR.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 03A05-0911-CR-625
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Chris D. Monroe, Judge
Cause No. 03D01-0881-FD-1857 and 03D01-0903-FD-331

May 6, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

William H. Carnahan, Jr., appeals his sentence for receiving stolen property as a Class D felony and resisting law enforcement as a Class D felony. We affirm.

Issue

Carnahan raises one issue, which we restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender.

Facts

On November 13, 2008, the State charged Carnahan with Class D felony receiving stolen property, Class D felony possession of methamphetamine, and Class C misdemeanor operating a vehicle without ever receiving a license. On March 13, 2009, the State separately charged Carnahan with Class D felony resisting law enforcement and Class C misdemeanor operating a vehicle without ever receiving a license.

Pursuant to a plea agreement, Carnahan pled guilty to Class D felony receiving stolen auto parts and Class D felony resisting law enforcement, and the State dismissed the remaining charges. At the guilty plea hearing, Carnahan admitted that, on August 29, 2008, he had possession of a vehicle that he knew was stolen. Carnahan also admitted that, on January 20, 2009, he fled from a marked police car and drove at a high rate of speed on the streets of Columbus.

At the sentencing hearing, the trial court noted Carnahan's extensive criminal history, that he was "a danger to others," and that he had six different drunk driving convictions despite the fact that he had never had a driver's license. Tr. p. 54. The trial court found that the aggravating circumstances were "huge" and that there were no

mitigating circumstances. Id. at 56. The trial court sentenced Carnahan to consecutive sentences of two years and nine months on each Class D felony conviction.

Analysis

Carnahan argues that his sentence is inappropriate in light of the nature of the offense and the character of the offender. Carnahan requests that we revise his sentences to consecutive advisory sentences of one and one-half years for an aggregate sentence of three years.

Indiana Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute 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 offender." When considering whether a sentence is inappropriate, we need not be "extremely" deferential to a trial court's sentencing decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). Still, we must give due consideration to that decision. Id. We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

The principal role of Rule 7(B) 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). We "should focus on the forest –

the aggregate sentence – rather than the trees – consecutive or concurrent, number of counts, or length of the sentence on any individual count." Id.

The nature of Carnahan's offenses is that he had possession of a vehicle that he knew was stolen and, on a later date, he fled from a marked police car and drove at a high rate of speed on the streets of Columbus.

An analysis of the character of the offender reveals that thirty-six-year-old Carnahan has an extensive criminal history. Carnahan's involvement with the juvenile justice system began at an early age. He was "counseled" by investigating officers several times before the age of ten. App. Vol. II p. 3. When he was ten years old, he was placed on probation for conversion. He had at least six juvenile adjudications, he repeatedly violated his probation, and he was repeatedly placed in the Indiana Boys School. As an adult, he has accumulated at least eleven misdemeanor convictions, at least seven felony convictions, and two probation revocations. At the time of the sentencing hearing, he had other charges pending. Despite his lengthy criminal history, Carnahan argues that he "never received the opportunity to learn a different way of living," that he has a history of drug and alcohol abuse, and that he has never had the benefit of treatment or guidance. Appellant's Br. p. 7.

Given Carnahan's extensive criminal history, the trial court's sentence was not inappropriate in light of the nature of the offense and the character of the offender.

Conclusion

The trial court's sentence was not inappropriate in light of the nature of the offense and the character of the offender. We affirm.

Affirmed.

BAILEY, J., and MAY, J., concur.