ATTORNEY FOR APPELLANT:

STEVEN KNECHT
Vonderheide & Knecht
Lafayette, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

CYNTHIA L. PLOUGHE
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

ANTHONY THURMAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A02-0710-CR-893
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE COUNTY CIRCUIT COURT
The Honorable Donald L. Daniel, Judge
Cause No. 79C01-0611-FA-24

July 9, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Anthony Thurman appeals the sentence he received following his conviction of Dealing In Cocaine,[1] a class A felony, which was entered upon his guilty plea. Thurman challenges the appropriateness of the sentence as the sole issue on appeal.

We affirm.

The facts as admitted by Thurman are that on November 2, 2006, Detective B.T. Brown, working undercover, purchased one hundred dollars' worth of cocaine from Thurman. The transaction took place within 1000 feet of McAllister Center, a community center/public park in Lafayette, Indiana. As a result of this and other events related to a drug sting operation, Thurman was charged with conspiracy to commit dealing cocaine and three counts of dealing cocaine, all as class A felonies, two counts of possession of cocaine, one a class B felony and the other a class C felony, maintaining a common nuisance, a class D felony, and possession of marijuana and possession of paraphernalia, both as class A misdemeanors. On August 20, 2007, Thurman entered into a plea agreement in which he agreed to plead guilty to one of the dealing cocaine charges in exchange for the State's agreement to dismiss the remaining charges. The agreement called for restitution and capped the executed portion of Thurman's sentence at twenty-seven years, but otherwise left the sentence to the trial court's discretion. The trial court accepted the plea agreement and, following a sentencing hearing, imposed a twenty-four-year sentence, to be served as follows:

> The defendant shall execute eighteen (18) years at the Indiana Department of Corrections with the last three (3) years at Tippecanoe Community Corrections at a level determined by Tippecanoe Community Corrections and six (6) years

1 Ind. Code Ann. § 35-48-4-1 (West, PREMISE through 2007 1st Regular Sess.).

> of said sentence shall be suspended and defendant placed on supervised probation for two (2) years and unsupervised probation for four (4) years.

Appellant's Appendix at 40.

Upon appeal, Thurman contends his sentence is inappropriate. We have the constitutional authority to revise a sentence if, after consideration of the trial court's decision, we conclude the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B); *Corbin v. State*, 840 N.E.2d 424 (Ind. Ct. App. 2006). "We recognize, however, the special expertise of the trial courts in making sentencing decisions; thus, we exercise with great restraint our responsibility to review and revise sentences." *Scott v. State*, 840 N.E.2d 376, 381 (Ind. Ct. App. 2006), *trans. denied*.

Thurman's inappropriateness challenge amounts to a claim that the sentence is too severe considering his character and the nature of his offense. With respect to his character, he notes that he has only one prior misdemeanor conviction, supports his young daughter, and expressed remorse for this offense. An examination of the record reveals other facts as well. Thurman does indeed have a prior marijuana conviction. In fact, Thurman admitted that he has a substance abuse and drug problem, which began when he was sixteen years old and progressed to the point that between the ages of sixteen and twenty-three he used marijuana ten times per day and two "eight-balls" of crack cocaine per week. He began drinking alcohol when he was eighteen years old and used ecstasy three times per week when he was twenty and twenty-one years old. Yet, he has never sought nor received substance abuse treatment. Moreover, Thurman claimed that he sold drugs in the instant case because

he could not find a job and needed money to help support his child and help his grandparents support his brother. In this case, the ends do not justify the means, nor do the two together speak highly of Thurman's character.

With respect to the nature of his offense, Thurman claims a shorter sentence is appropriate because he sold a relatively small amount of cocaine and did not realize that he was within 1000 feet of a public park at the time – which was the element that elevated the offense to a class A felony. Considered together with the foregoing evidence concerning Thurman's character, we agree that a sentence reduced below the advisory sentence is in order. In fact, the trial court imposed a reduced sentence, as the advisory sentence for a class A felony is thirty years. We find no compelling reason in the record to reduce that sentence even further. We conclude that the sentence imposed by the trial court is not inappropriate.

Judgment affirmed.

KIRSCH, J., and BAILEY, J., concur