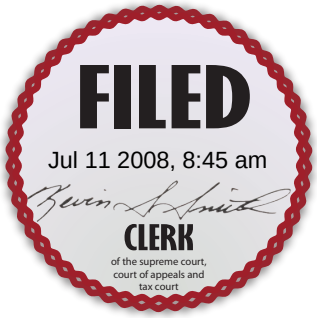

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IN THE
COURT OF APPEALS OF INDIANA

STEVEN L. McCOLLUM,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A02-0707-CR-570
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Thomas H. Busch, Judge
Cause No. 79D02-0605-FB-35

July 11, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Steven L. McCollum appeals his sentence for robbery while armed with a deadly weapon and attempted robbery resulting in bodily injury, both Class B felonies.[1] His sentence is not inappropriate in light of his character and the nature of his offenses; therefore, we affirm.

FACTS AND PROCEDURAL HISTORY

On May 26, 2006, McCollum and some friends entered Keenan Hall's residence to take money from him. One of McCollum's friends struck Hall with a sock containing a can of frozen juice, causing injury to his face.

On May 27, 2006, McCollum and several others went to the residence of Jeffrey Ward and Monica Hamilton. Ward and Hamilton allowed them in because they knew McCollum. McCollum was armed with a crowbar, while others had baseball bats and pipes. They took prescription drugs from the residence.

McCollum was charged with robbery while armed with a deadly weapon, a Class B felony; attempted robbery resulting in bodily injury, a Class B felony; theft, a Class D felony;[2] and resisting law enforcement, a Class A misdemeanor.[3] On April 17, 2007, McCollum pled guilty to the two Class B felonies. In exchange, the State dismissed the charges of theft and resisting law enforcement, along with charges of false informing and minor consumption under a separate cause. The State also agreed it would not petition to revoke McCollum's probation in three other cases.

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[1] Ind. Code §§ 35-42-5-1 (robbery); 35-41-5-1 (attempt).
[2] Ind. Code § 35-43-4-2.
[3] Ind. Code § 35-44-3-3.

On May 11, 2007, the trial court sentenced McCollum to thirteen years for robbery and ten years for attempted robbery. The sentences would be served consecutively.

DISCUSSION AND DECISION

McCollum argues his sentence is inappropriate. We may revise a sentence if it is "inappropriate in light of the nature of the offense and the character of the offender." Ind. Appellate Rule 7(B). We give deference to the trial court's decision, recognizing the special expertise of the trial court in making sentencing decisions. *Barber v. State*, 863 N.E.2d 1199, 1208 (Ind. Ct. App. 2007), *trans. denied* 878 N.E.2d 208 (Ind. 2007). The defendant bears the burden of persuading us the sentence is inappropriate. *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007).

As to the nature of the offenses, McCollum notes he was not the one who struck Hall, there was no indication Hall was seriously injured, and no one was injured in the robbery of Ward and Hamilton's residence. The trial court acknowledged McCollum's lesser role in the attempted robbery against Hall and imposed the advisory sentence of ten years. *See* Ind. Code § 35-50-2-5 (advisory sentence for Class B felony is ten years). However, McCollum used his familiarity with Ward and Hamilton to gain access to their residence. Furthermore, these are separate offenses against separate victims, a fact we have previously cited as justification for enhanced or consecutive sentences. *French v. State*, 839 N.E.2d 196, 197 (Ind. Ct. App. 2005), *trans. denied* 855 N.E.2d 997 (Ind. 2006).

As to his character, McCollum notes he was seventeen when he committed the offenses. While age may be a mitigator, it bears less significance when the defendant has

an extensive criminal background. *See Monegan v. State*, 756 N.E.2d 499, 504-05 (Ind. 2005) (Declining to reduce seventeen-year-old Monegan's sentence, the Court noted he had "a trail of criminal conduct that is rather substantial for a person of his age."). McCollum was first adjudicated a delinquent when he was thirteen. He has eight true findings, including theft (a Class D felony if committed by an adult) and attempted burglary (a Class C felony if committed by an adult). McCollum has previously been waived into adult court and has convictions of theft, resisting law enforcement, public intoxication, disorderly conduct, and trespass. He has violated probation several times in the past, and he was on probation in three cases when he committed the current offenses. McCollum has a long criminal history, including several offenses similar to the current offenses.[4]

McCollum also notes he received formal education only through the sixth grade and was making good progress toward his GED and WorkKeys certificate at the time of sentencing. However, McCollum will be eligible for credit if he completes his GED. *See* I.C. § 35-50-6-3.3 (awarding credit time for various educational attainments).

Finally, McCollum emphasizes the fact that he pled guilty to two Class B felonies. This fact is also of little significance, as he received a substantial benefit by pleading guilty. *See Fields v. State*, 852 N.E.2d 1030, 1033 (Ind. Ct. App. 2006) ("Fields received a significant benefit from the plea, and therefore it does not reflect as favorably upon his character as it might otherwise."), *trans. denied* 860 N.E.2d 597 (Ind. 2006). Four other

[4] Many of these facts come from McCollum's pre-sentence investigation report, which was placed in the appendix on white paper. We remind counsel that the report is a confidential document that must be filed on light green paper. *See* Ind. Appellate Rule 9(J).

charges were dismissed, and the State agreed not to petition to revoke his probation in three other cases. For the forgoing reasons, McCollum's sentence is not inappropriate in light of the nature of his offenses or his character, and we affirm.

Affirmed.

MATHIAS, J., and VAIDIK, J., concur.