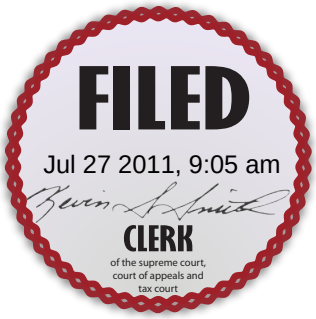

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IN THE
COURT OF APPEALS OF INDIANA

MATTHEW WILLIAM HUTTLE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-1012-CR-634
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Salvador Vasquez, Judge
Cause No. 45G01-0909-FD-107

July 27, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Matthew Huttle appeals his two and one-half year sentence for battery as a Class D felony. We affirm.

Issue

Huttle 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 August 24, 2009, Huttle's three-year-old son, C.H., had a bathroom accident, and Huttle beat the child, leaving bruises on his neck and severe bruises on his back and buttocks. The pain from the beating was so extreme that C.H. was unable to sit properly for over week.

The State charged Huttle with Class D felony battery and Class C felony battery. Huttle pled guilty to Class D felony battery, and the State dismissed the Class C felony charge. The trial court found Huttle's guilty plea and admittance of responsibility as mitigators. The trial court found his criminal history, the fact that he was on probation at the time of the offense, the fact that he was arrested and charged with additional offenses while on bond, his violation of his position of trust, his history of battery on C.H.'s mother, the fact that prior leniency had not deterred him, and C.H.'s young age as aggravators. The trial court sentenced Huttle to two and one-half years in the Department of Correction. Huttle now appeals.

Analysis

Huttle argues that his two and one-half year sentence is inappropriate in light of the nature of the offense and the character of the offender. According to Huttle, we should reduce his sentence to eighteen months to two years with part of the sentence to be served on probation.

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 the offense is that Huttle beat his three-year-old son, C.H., because he had a bathroom accident while Huttle was watching him. As a result, C.H. sustained bruising on his neck and severe bruising on his back and buttocks. C.H. was unable to sit without pain for over a week. Huttle admitted responsibility and pled guilty to Class D felony battery.

An analysis of the character of the offense reveals that twenty-eight-year-old Huttle has a significant criminal history and an alcohol problem. He has convictions for operating a vehicle while intoxicated, disorderly conduct, and conversion. His disorderly conduct conviction stemmed from his battery of C.H.'s mother. He was on probation for operating a vehicle while intoxicated and had additional pending charges at the time of this offense. Moreover, while on bond for this offense, Huttle was arrested and charged for operating a vehicle while intoxicated on three occasions. While on bond, he was also arrested and charged with resisting law enforcement, possession of marijuana, public intoxication, and unauthorized entry of a motor vehicle, and driving while suspended. Huttle does work and contribute financially to C.H.'s care. He points out that he was described as a "loving" and "excellent" father during the sentencing hearing. Sentencing Tr. p. 18. C.H.'s mother described the battery as a "one-time incident." Id. at 14.

The trial court noted that Huttle had not learned from his mistakes because he continued to be arrested and charged with offenses while on bond from the battery charge. The trial court also noted Huttle's prior battery of C.H.'s mother. Given the significant bruising on C.H., Huttle's criminal history, his history of battering C.H.'s mother, and his arrests while on bond, an enhanced sentence was warranted. We cannot

say that the sentence of two and one-half years in the Department of Correction was inappropriate in light of the nature of the offense and the character of the offender.

Conclusion

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

Affirmed.

RILEY, J., and DARDEN, J., concur.