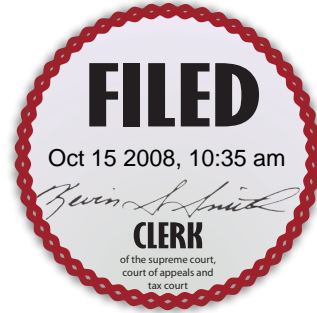


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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MELVIN FLENOY, III,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 20A03-0804-CR-156

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APPEAL FROM THE ELKHART CIRCUIT COURT  
The Honorable Terry C. Shewmaker, Judge  
Cause No. 20C01-0703-FB-00024

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**October 15, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Melvin Flenoy (“Flenoy”) pleaded guilty to Class B felony robbery in Elkhart Circuit Court. He was ordered to serve nine years, with two years suspended to reporting probation. Flenoy appeals and argues that his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

### **Facts and Procedural History**

Three days after his sixteenth birthday, Flenoy and two accomplices robbed a Key Bank branch. Flenoy was armed with a butcher knife, and one of his accomplices was armed with a gun. On March 28, 2007, Flenoy was charged with Class B felony robbery, and he pleaded guilty on September 6, 2007.

A sentencing hearing was held on December 13, 2007. The trial court found the following mitigating circumstances: Flenoy’s acceptance of responsibility for his crime, his young age, “the fact that he was raised by his grandmother as a result of his parents being unavailable,” and his mental handicap. Appellant’s App. p. 16. Flenoy’s juvenile history was found to be aggravating. The trial court concluded that a mitigated sentence was appropriate and ordered Flenoy to serve nine years with two years suspended to reporting probation. Flenoy appeals.

### **Discussion and Decision**

Flenoy argues that his nine-year sentence, with two years suspended, is inappropriate in light of the nature of the offense and the character of the offender. Pursuant to Indiana Appellate Rule 7(B), our court “may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the

offender.” The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

A Class B felony conviction subjects the offender to a sentence in the range of six to twenty years, with the advisory sentence being ten years. Ind. Code § 35-50-2-5 (2004 & Supp. 2007). Flenoy was sentenced to serve one year less than the advisory sentence, and two of those nine years were suspended to probation.

Flenoy and his accomplices robbed a bank while armed with butcher knives and a gun. They also used a stolen vehicle in the commission of the offense. Flenoy has a limited juvenile history, but he was adjudicated a delinquent child for committing the offense of battery resulting in bodily injury. Flenoy’s young age, mental handicap, acceptance of responsibility for his crime, and lack of contact with his parents, certainly support the trial court’s conclusion that a mitigated sentence was warranted in this case. However, we cannot agree with Flenoy’s argument that those circumstances require reduction of his sentence to the minimum sentence of six years executed. Accordingly, we conclude that Flenoy’s nine-year sentence with two years suspended to reporting probation was not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

BAKER, C.J., and BROWN, J., concur.