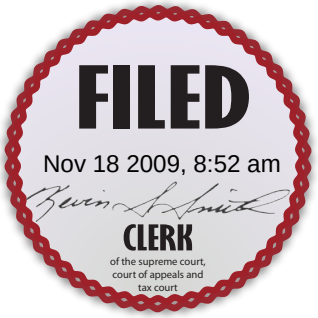

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IN THE
COURT OF APPEALS OF INDIANA

JAMES L. RATLIFF,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 48A04-0906-CR-355
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MADISON CIRCUIT COURT
The Honorable Fredrick R. Spencer, Judge
Cause No. 48C01-0708-FD-420

November 18, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

James L. Ratliff pled guilty to battery resulting in bodily injury to a person less than fourteen years of age,[1] a Class D felony, and battery resulting in bodily injury to a pregnant woman,[2] a Class C felony. The trial court sentenced him to eight years executed. Ratliff raises one issue on appeal, which we restate as whether Ratliff's sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

On August 27, 2007, Ratliff injured Cassie Huffman, his pregnant girlfriend, when he threw a remote control and an ashtray at her during an argument. Huffman suffered abrasions, lacerations, and physical pain as a result of one of the items striking her in the face. Ratliff then picked Huffman up by the throat and threw her on the bed, causing more pain. During the same argument, Ratliff, who is over eighteen years of age, shoved a door into Huffman's two-year-old child, C.H., causing a laceration on his lip and physical pain. The State charged Ratliff with two Class D felonies -- Count I, domestic battery, and Count II, battery resulting in bodily injury to a person less than fourteen years of age -- and one Class C felony -- Count III, battery resulting in bodily injury to a pregnant woman.

Ratliff entered into a plea agreement with the State by which Ratliff agreed to plead guilty to Count II and Count III and Count I was dismissed.

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[1] *See* Ind. Code § 35-42-2-1(a)(2)(B).

[2] *See* Ind. Code § 35-42-2-1(a)(8).

During sentencing, the trial judge found Ratliff's guilty plea to be a mitigating factor. As an aggravating factor, the trial court found that Ratliff committed these offenses while on probation for a Class C felony child molesting conviction. The trial court sentenced Ratliff to one year for Count II and eight years for Count III to run concurrently. Ratliff now appeals.

DISCUSSION AND DECISION

Ratliff argues that the trial court's sentence was inappropriate. "Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution 'authorize[] independent appellate review and revision of a sentence imposed by the trial court.'" *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007) (quoting *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)) (changes in original). Indiana Appellate Rule 7(B) outlines this appellate authority, permitting revision of 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 onus is on the defendant to persuade this court that his sentence is inappropriate. *Childress*, 848 N.E.2d at 1080.

"In determining whether a sentence is inappropriate, the advisory sentence 'is the starting point the Legislature has selected as an appropriate sentence for the crime committed.'" *Ross v. State*, 908 N.E.2d 626, 632 (Ind. Ct. App. 2009) (quoting *Childress*, 848 N.E.2d at 1081). Ratliff pled guilty to battery resulting in bodily injury as a Class D felony and battery resulting in injury to a pregnant woman as a Class C felony.

The advisory sentence for a Class C felony is four years. Ind. Code § 35-50-2-6.

Ratliff contends that the eight-year sentence imposed by the trial court for his Class C felony conviction, which was the maximum sentence allowed by law, is inappropriate because he did not commit the worst offense, nor was he the worst offender. With regard to the worst offense and worst offender principle, we have previously explained as follows:

> There is a danger in applying this principle . . . [because] [i]f we were to take this language literally, we would reserve the maximum punishment for only the single most heinous offense. In order to determine whether an offense fits that description, we would be required to compare the facts of the case before us with either those of other cases that have been previously decided, or -- more problematically -- with hypothetical facts calculated to provide a "worst-case scenario" template against which the instant facts can be measured. If the latter were done, one could always envision a way in which the instant facts could be worse. In such case, the worst manifestation of any offense would be hypothetical and not real, and the maximum sentence would never be justified.
>
> This leads us to conclude the following with respect to deciding whether a case is among the very worst offenses and a defendant among the very worst offenders, thus justifying the maximum sentence: We should concentrate less on comparing the facts of this case to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant's character.

Brown v. State, 760 N.E.2d 243, 247 (Ind. Ct. App. 2002), *trans. denied*.

We begin by addressing the nature of Ratliff's offense. Here, Ratliff threw a remote control and an ashtray at Huffman, causing abrasions and lacerations. He also grabbed her by the throat and threw her on the bed. Ratliff was aware that Huffman was five months pregnant with his child at the time. He engaged in this conduct while still on parole for a Class C felony child molesting conviction. The combination of the injury suffered by Huffman and Ratliff's knowledge of her pregnancy shows that the nature of

the offense is serious.

Ratliff also argues that the trial court's sentence is inappropriate in light of his character. He contends that he has been described as dependable and supportive of his daughter and helpful to his mother who has health problems. *Appellant's Br*. at 3. Although those are good traits, they do not persuade this court that the trial court's sentence is inappropriate in light of Ratliff's character. He has been convicted of disorderly conduct, and he committed the instant offenses while he was on parole for a Class C felony child molesting conviction.

Accordingly, we conclude that the sentence imposed by the trial court was not inappropriate in light of the nature of Ratliff's offenses or his character.

We affirm.

NAJAM, J., and BARNES, J., concur.