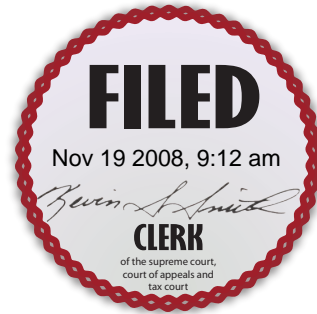


**Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**



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**IN THE  
COURT OF APPEALS OF INDIANA**

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JORDAN GUESS, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 11A01-0805-CR-244  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE CLAY CIRCUIT COURT  
The Honorable Joseph D. Trout, Judge  
Cause No. 11C01-0707-FB-255

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**November 19, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BRADFORD, Judge**

Appellant/Defendant Jordan Guess appeals from the ten-year sentence imposed following his guilty plea to Class B felony Burglary.<sup>1</sup> Guess contends that his sentence is inappropriate in light of the nature of his offense and his character. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On October 2, 2006, Guess broke and entered the Brazil home of Janet Grey with the intent to commit theft within. Guess took various personal items from Grey's home valued at almost \$12,000, including electronics, a video game system and games, golf clubs, tools, clothing, cashier's checks, and cash. On July 13, 2007, the State charged Guess with Class B felony burglary, Class D felony theft, and Class D felony criminal mischief. On March 3, 2008, pursuant to a written plea agreement, Guess pled guilty to Class B felony burglary. On April 21, 2008, the trial court sentenced Guess to ten years of incarceration. The trial court found the high risk of recidivism, Guess's criminal history, and that Guess's crime was much more serious than required to establish Class B felony burglary to be aggravating circumstances. The trial court found Guess's remorse and the initial steps he had taken to help himself while incarcerated to be mitigating circumstances.

### **DISCUSSION AND DECISION**

#### **Whether Guess's Sentence is Appropriate**

Guess contends that his sentence of ten years of incarceration for Class B felony burglary is inappropriate. We "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is

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<sup>1</sup> Ind. Code § 35-43-2-1 (2006).

inappropriate in light of the nature of the offense and the character of the offender.” Ind. Appellate Rule 7(B). “Although appellate review of sentences must give due consideration to the trial court’s sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied.” *Shouse v. State*, 849 N.E.2d 650, 660 (Ind. Ct. App. 2006), *trans. denied* (citations and quotation marks omitted).

The nature of Guess’s offense was the burglary of a dwelling, one that resulted in the theft of almost \$12,000 of property. Although non-violent, its effect on Grey was apparently profound. Guess “ransacked” Grey’s home, had broken a window gaining entry, and had also destroyed the door to a vault in the basement. According to Grey, who wrote a victim impact letter to the Clay County Probation Department, she did not feel secure in her home following the burglary, and she and her family were unable to return to it for one and one-half weeks while repairs were completed. Grey wrote that it had taken her months to sort through the “mess” that Guess’s burglary had caused and that, over sixteen months after the burglary, “parts [were] not done yet.” Appellant’s Green App. p. 63. Grey also wrote that Guess took several items that were irreplaceable and others that were not covered by her insurance. Overall, we consider the nature of Guess’s offense to be slightly more severe than a “typical” burglary, based on the value and amount of the items taken, and the damage done to Grey’s home. The nature of Guess’s offense justifies the advisory ten-year sentence he received.

As for Guess’s character, we would note that his lengthy criminal history does not speak well of it. As a juvenile, Guess was found to have committed what would have

been theft if committed by an adult. As an adult, Guess has additional convictions for seven counts of Class D felony theft, and, as of sentencing in this case, pending charges for four counts of Class D felony theft, Class D felony receiving stolen property, Class B felony burglary, and Class B misdemeanor criminal mischief. Additionally, Guess has admitted that he committed his crimes to support other illegal activities, namely his drug and underage alcohol consumption.

On the other hand, Guess also expressed remorse for his crime, an expression that the trial court found to be credible. Additionally, since becoming incarcerated, Guess completed the “Celebrate Recovery” and “Growing in Christ, Helping Others” programs and conducted Bible studies. While we agree with the trial court that “[i]t’s easy to be receptive to notions of changing your life” when incarcerated and that it “remains to be seen” whether Guess “really want[s] to be a man and then one day be a good citizen[,]” we nevertheless commend his progress to date, and, in our view, it reflects well on his character. On the whole, we conclude that to the extent that Guess’s criminal history reflects poorly on this character, this is offset by his remorse and preliminary steps in the right direction. Because we consider Guess’s crime to be somewhat more egregious than the typical burglary of a dwelling, the nature of his crime, along with our neutral assessment of his character, justifies the advisory ten-year sentence that was imposed.

The judgment of the trial court is affirmed.

RILEY, J. and BAILEY, J., concur.