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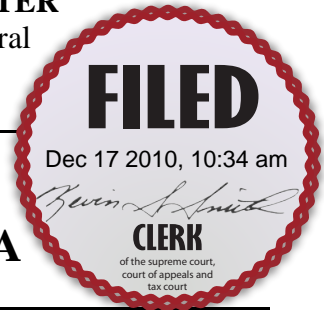
ATTORNEY FOR APPELLANT:

THOMAS W. VANES
Office of the Public Defender
Crown Point, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

NICOLE M. SCHUSTER
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

JAMES R. ROBISON,
Appellant- Defendant,

vs.

STATE OF INDIANA,
Appellee- Plaintiff,

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No. 45A03-1006-CR-291

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Diane Ross Boswell, Judge
Cause No. 45G03-0702-FA-4

December 17, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

James R. Robison appeals, following his plea of guilty to two counts of child molesting as Class B felonies, his sentence of twenty years of imprisonment. He raises the sole issue of whether his sentence is inappropriate. Concluding it is not inappropriate, we affirm.

Facts and Procedural History

From 2000 to 2003, Robison sexually molested two girls – the daughters of his girlfriend and later, wife – who were then less than fourteen years old. After being charged with two counts of child molesting as Class A felonies, he pleaded guilty to two counts of child molesting as Class B felonies and signed a stipulated factual basis, which provides the following details of the acts of molestation:

4. . . . [Robison] had one of the girls . . . touch his penis while the other sister would sit on his face and he would perform oral sex on her. [Robison] would make [Am.K.] and [Al.K.] suck on his penis until he ejaculated on himself. [Am.K.] stated that [Robison] had the two sisters perform oral sex on him several times and where [sic] he would make a contest out of it, paying the sister who caused him to ejaculate the fastest \$20.

5. That [Al.K.] gave a deposition where she stated [Robison] had performed oral sex on her and he had put his finger into her vagina and also she had performed oral sex on him many times. Sometimes [Al.K.] stated she saw [Am.K.] perform oral sex on [Robison] or saw him perform oral sex on [Am.K.].

6. . . . [Robison] told Lake Station detectives that he has known [Al.K.] and [Am.K.] since they were approximately five and six years old and was aware of their ages when he performed oral sex on [Am.K.] when she was about eleven or twelve years old, and he also performed oral sex on [Al.K.] when she was about twelve or thirteen years old. [Robison] also said that [Am.K.] and [Al.K.] grabbed his penis with their hands and stroked it, and after a little bit each of the girls would put their mouths around his penis, and this happened at least three times for each girl.

Appellant's Appendix at 42-43.

Upon accepting Robison's guilty plea, the trial court entered the following findings:

Mitigating Circumstance:

1. The defendant has pled guilty and has admitted guilt.
2. The defendant has no prior criminal history.

Aggravating Circumstance:

1. The defendant was in a position of trust with the victims.

Id. at 46.

The trial court sentenced Robison to ten years of imprisonment for each count of child molesting, to run consecutively, for a total of twenty years. Robison now appeals his sentence.

Discussion and Decision

I. Standard of Review

This court has authority to revise a sentence "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." Ind. Appellate Rule 7(B). In making this determination, we may look to any factors appearing in the record. Roney v. State, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), trans. denied. Nevertheless, the defendant bears the burden to persuade this court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). "[W]hether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." Cardwell v. State, 895 N.E.2d 1219, 1224 (Ind. 2008).

II. Inappropriate Sentence

Robison makes three important concessions, narrowing the issue on appeal. First, the trial court sentenced him to the “presumptive” (now called “advisory”) sentence of ten years for each count. Brief of Appellant at 3. Second, the trial court had discretion to order that Robison serve the sentences consecutively. Id. Third, “there is nothing about the nature of the[] offenses that would, if viewed in isolation, warrant mitigated sentences.” Id. at 4. “Robison’s sole argument . . . is that his aggregate sentence is nonetheless inappropriate given his complete lack of criminal history.” Id.

Robison refers us to case law which recognizes a lack of criminal history as a substantial mitigating factor. See Loveless v. State, 642 N.E.2d 974 (Ind. 1994); Cloum v. State, 779 N.E.2d 84 (Ind. Ct. App. 2002). At the outset, we point out that, given the extended period of the molestations, Robison was not leading a law-abiding life, even if his criminal record does not include other arrests or convictions. To the extent Robison argues we should ignore the nature of the offenses simply because he concedes it would not warrant a lesser sentence and he implores us to focus only on his lack of criminal history, we decline to do so. Upon review of a sentence, we look to all factors bearing on a sentence and consider whether it is “inappropriate in light of the nature of the offense and the character of the offender.” App. R. 7(B) (emphasis added). Although we agree that lack of criminal history can be a significant mitigator, we find it unpersuasive to the extent it would make Robison’s sentence inappropriate, and find more compelling the deplorable nature of the continued molestations and the fact they were perpetrated against his young step-daughters.

Robison committed multiple and separate offenses against separate victims over an extended period that allowed time for reflection and yet he apparently decided to repeatedly molest his pre-teen to teenage step-daughters. The fact that Robison committed his offenses against multiple victims is sufficient to order consecutive sentences. See Serino v. State, 798 N.E.2d 852, 857 (Ind. 2003) (“[W]hen the perpetrator commits the same offense against two victims, enhanced and consecutive sentences seem necessary to vindicate the fact that there were separate harms and separate acts against more than one person.”). Accordingly, considering the nature of those offenses that were perpetrated against multiple victims, and also his character, we conclude his sentence is not inappropriate. Cf. Gleaves v. State, 859 N.E.2d 766, 772 (Ind. Ct. App. 2007) (affirming consecutive presumptive sentences for crimes against multiple victims and in light of the nature of the offenses).

Conclusion

Robison’s consecutive sentences for a total of twenty years of imprisonment are not inappropriate in light of the nature of his offenses or his character, and are therefore affirmed.

Affirmed.

RILEY, J., and BROWN, J., concur.