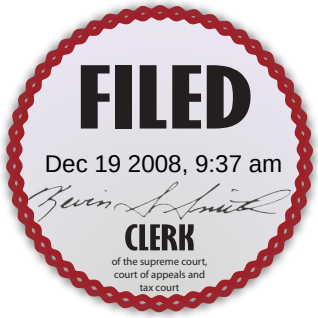

ATTORNEY FOR APPELLANT:

JEFFREY G. RAFF
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

ANGELA N. SANCHEZ
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

TODD N. MARTIN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A03-0805-CR-264
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0711-FB-167

December 19, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Following a jury trial, Todd Martin was convicted of Class B felony robbery and Class C felony carrying a handgun without a license and was sentenced to concurrent terms of fifteen years and four years in the Department of Correction. Martin now appeals his convictions and aggregate sentence, arguing that the evidence is insufficient to support his convictions and that his aggregate fifteen-year sentence is inappropriate in light of the nature of the offenses and his character. Martin has waived these challenges by failing to present cogent arguments. Waiver notwithstanding, we conclude that the evidence is sufficient and that Martin's sentence is not inappropriate. We therefore affirm.

Facts and Procedural History

On November 15, 2007, Marc Brooks began his early-morning newspaper route in Fort Wayne. Martin, who Brooks did not know, approached him. Martin put a gun near Brooks's face, and Brooks believed that he "was about to die." Tr. p. 18. Martin ordered Brooks to place his hands on the seat of a car and took Brooks's wallet and money. *Id.* at 18-19. Martin then fled in a vehicle. Brooks immediately reported the incident, and police stopped Martin in the area. Police found Brooks's wallet in plain view in Martin's car and a gun beneath the driver's seat. *Id.* at 38-39. Police determined that Martin did not have a permit for the gun. *Id.* at 48. Brooks identified Martin at the scene of the traffic stop. *Id.* at 21-22.

The State charged Martin with Class B felony robbery[1] and Class C felony carrying a handgun without a license.[2] After a jury trial, Martin was convicted as charged. Following a sentencing hearing, the trial court sentenced him to concurrent terms in the Department of Correction of fifteen years for the Class B felony conviction and four years for the Class C felony conviction. Martin now appeals his convictions and sentence.

Discussion and Decision

Martin appeals his convictions and aggregate sentence. On appeal, he makes two arguments. First, he argues that the evidence is insufficient to support his convictions. Second, he argues that his aggregate fifteen-year sentence is inappropriate in light of the nature of the offenses and his character.

I. Sufficiency of the Evidence

Martin challenges the sufficiency of the evidence to support his convictions. When reviewing a claim of insufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. *Jones v. State*, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. *Id.*

Martin's argument that the evidence is insufficient to support his convictions consists of only two sentences and contains no citations to the record or relevant

[1] Ind. Code § 35-42-5-1.

[2] Ind. Code §§ 35-47-2-1, -23.

authority. Appellant's Br. p. 4. As such, this issue is waived for failure to present a cogent argument. Ind. Appellate Rule 46(A)(8)(a).

Waiver notwithstanding, we conclude that the evidence is sufficient to support Martin's convictions. In order to convict Martin of Class B felony robbery, the State had to prove that Martin, "while armed with a deadly weapon," "knowingly or intentionally t[ook] property from another person or from the presence of another person: (1) by using or threatening the use of force on any person; or (2) by putting any person in fear[.]" Ind. Code § 35-42-5-1. Accordingly, the State presented evidence that Martin, while armed with a gun, caused Brooks to fear that he "was about to die," Tr. p. 18, and took Brooks's wallet and money, *id.* at 19. Martin's contention that the evidence is insufficient to identify him as the perpetrator of this offense is merely a request for us to reweigh the evidence, which we will not do. The evidence is sufficient to support Martin's conviction for Class B felony robbery.

As for Class C felony carrying a handgun without a license, in order to convict Martin of this offense, the State had to prove that Martin "carr[ied] a handgun in any vehicle or on or about [his] body, except in [his] dwelling, on [his] property or fixed place of business, without a license . . . being in [his] possession[,]" Ind. Code § 35-47-2-1(a), and that Martin "has been convicted of a felony within fifteen (15) years before the date of this offense." Ind. Code § 35-47-2-23(c)(2)(B). The State presented evidence that Martin was found in possession of a handgun on a public street. Tr. p. 35, 39. The State also presented evidence that police determined that Martin did not have a permit for the gun. *Id.* at 48. Finally, the State presented evidence that Martin was convicted of

Class D felony escape in 2006. *Id.* at 68. The evidence is therefore sufficient to support Martin's conviction for Class C felony carrying a handgun without a license.

II. Inappropriate Sentence

Martin contends that his fifteen-year aggregate sentence is inappropriate in light of the nature of the offenses and his character. Although a trial court may have acted within its lawful discretion in imposing a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution authorize independent appellate review and revision of sentences through Indiana Appellate Rule 7(B), which provides that a 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." *Reid v. State*, 876 N.E.2d 1114, 1116 (Ind. 2007) (citing *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007)). The burden is on the defendant to persuade us that his or her sentence is inappropriate. *Id.* (citing *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)).

Although Martin cites this standard and asks for relief pursuant to Indiana Appellate Rule 7(B), he presents no argument relating to the nature of the offenses or his character and how these considerations warrant a reduced sentence. Thus, he has waived this issue by failing to present a cogent argument. App. R. 46(A)(8)(a).

Waiver notwithstanding, there is nothing inappropriate about Martin's aggregate fifteen-year sentence in light of the nature of his offenses and his character. As for the nature of Martin's offenses, Martin illegally possessed a handgun and used this handgun to place his victim in fear for his life. Martin brandished a gun near his victim's face

while the victim tried to go about his morning routine of delivering newspapers, causing the victim to fear that he "was about to die." Tr. p. 18. Martin then stole the victim's wallet and money and fled. Nothing about these offenses renders Martin's aggregate sentence inappropriate. As for Martin's character, he has a "substantial criminal history" involving numerous crimes committed as a juvenile and as an adult. Sent. Tr. p. 9. As the trial court observed during the sentencing hearing, "It's clear that Mr. Martin has a complete disregard for other people's property and the general authority of the police and law and order in the community." *Id.* Martin's aggregate sentence is not inappropriate in light of his character.

Affirmed.

KIRSCH, J., and CRONE, J., concur.