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**IN THE
COURT OF APPEALS OF INDIANA**

RUDY A. ROWE,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 17A05-0604-CR-198
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE DEKALB CIRCUIT COURT
The Honorable Kirk D. Carpenter, Judge
Cause No. 17C01-0503-PC-6

October 31, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Rudy A. Rowe was convicted of Battery,¹ a class C felony. Rowe now appeals, and presents the following restated issue for review: Was his sentence appropriate?

We affirm.²

The facts favorable to the conviction are that Rowe was forty-four years old. On March 1, 2005, Rowe and his fiancé, Angela Dove, were drinking and consuming drugs at Rowe's brother's home. At some point during the evening, Rowe and Dove began to argue. Rowe alleged Dove took drugs from his car without his permission. During their argument, Dove turned to walk away from Rowe. After Dove turned away, Rowe stabbed Dove in the lower back with a "lockblade knife[.]" *Appellant's Appendix* at 30.

On March 2, 2005, the State charged Rowe with battery as a class C felony. Subsequently, the State charged Rowe under separate cause numbers for unrelated incidents with failure to register as a class D felony and battery as a class A misdemeanor. The trial court considered all three charges concurrently. On December 12, 2005, Rowe entered into a plea agreement with the State. Pursuant to the plea agreement, Rowe pleaded guilty to battery as a class A misdemeanor and battery as a class C felony in exchange for which the State dismissed the charge of failure to register as a class D felony. The plea agreement stipulated that sentencing would be imposed

¹ Ind. Code Ann. § 35-42-2-1(a)(3) (West, PREMISE through 2006 2nd Regular Sess.).

² The State notes that Rowe "elected to not include the transcript of his guilty plea hearing in the appellate record." *Appellee's Brief* at 2 n.1. An appellant bears the responsibility to present a sufficient record that supports his claim in order for an intelligent review of the issues. *Miller v. State*, 753 N.E.2d 1284 (Ind. Ct. App. 2001); Ind. Appellate Rules 2 and 27. An appellant waives the right to appellate review without submitting a complete record of the issues for which he claims error. *Miller v. State*, 753 N.E.2d 1284. In this case, however, we agree with the State that "[w]hile th[e] transcript would have been very useful . . . in determining the circumstances of the crime under [] Indiana [Appellate] Rule 7(b) [], . . . there is already ample evidence in the record" to conduct our review. *Appellee's Brief* at 2.

pursuant to the trial court's discretion. Upon the conclusion of the sentencing hearing, which was held on March 27, 2006, the trial court sentenced Rowe to seven and one-half years imprisonment upon the conviction of battery as a class C felony, and fined him \$5,000 upon the conviction of battery as a class A misdemeanor, which the trial court suspended "as long as [Rowe] has no contact whatsoever with either of the victims or their families." *Appellant's Appendix* at 9. Rowe now appeals.

Rowe challenges only the sentence of seven and one-half years of imprisonment imposed upon the conviction of battery as a class C felony, and contends the sentence is inappropriate because "the victim did not receive permanent injuries and [he] pled guilty and expressed remorse." *Appellant's Brief* at 3. Under article 7, section 6 of the Indiana Constitution, we have the authority to review and revise sentences. *Pinkston v. State*, 836 N.E.2d 453 (Ind. Ct. App. 2005), *trans. denied*. A sentence authorized by statute will not be revised unless it is inappropriate in light of the nature of the offense and the character of the offender. *Id.*; Ind. Appellate Rule 7(B). When determining if a sentence is appropriate, we initially look to the presumptive sentence, and consider deviation therefrom based on the balancing of any aggravating or mitigating circumstances.³ *Pinkston v. State*, 836 N.E.2d 453. The "nature of the offense" speaks to the statutory presumptive sentence for the class of crimes to which the offense belongs. *Id.* The "character of the offender" refers to the general sentencing considerations under Ind. Code Ann. § 35-38-1-7.1 (West 2004).

³ At the time of Rowe's crime, the Indiana sentencing statutes provided for fixed-term presumptive sentences. Public Law 71-2005 has since abolished "presumptive sentences" and established "advisory sentences." See *Williams v. State*, 830 N.E.2d 107 (Ind. Ct. App. 2005), *trans. denied*.

Initially, we note that at the time Rowe committed battery, the presumptive sentence for a class C felony was four years and the maximum was eight years. Ind. Code Ann. § 35-50-2-6 (West 2004). The nature of the offense was that after consuming drugs, Rowe stabbed Dove, who was then his fiancé, in the back as she turned to walk away. Regarding Rowe's character, he has a lengthy criminal record, including felony convictions of escape, child molesting, and non-support of a dependent child, and misdemeanor convictions of illegal possession, operating a motor vehicle while privileges are suspended, battery, and operating a vehicle while intoxicated. Further, as Rowe states in his brief, "[h]e [] violated probation in the past and had a poor record of compliance with court orders and appearing for scheduled court hearings." *Appellant's Brief* at 5 (citation omitted). We also note that while on bond in this case, Rowe was arrested and charged with battery and failure to register as a sex offender.

Despite Rowe's character, he contends his sentence is inappropriate because Dove was not permanently injured, he admitted guilt, and he expressed remorse. Rowe provides no authority in support of the proposition that a defendant should receive no more than the presumptive sentence because the victim whom he stabbed was not permanently injured. This argument defies logic, and we decline to adopt this view. Regarding his plea of guilty, we have stated, "a guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea" *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. In exchange for Rowe's guilty plea, the State dismissed the pending charge of failure to register as a sex offender, a class D felony. Rowe, therefore, received a substantial

benefit from his guilty plea, and he is not entitled to significant mitigation for his admission. We agree that the remaining mitigating factor, remorse, is valid, but we do not believe its weight is greater than or equal to the aggravating weight of the nature of the offense, *i.e.*, stabbing one's fiancé in the back, and Rowe's character. In sum, the record reflects that Rowe is a serial offender. His repeated contacts with the criminal justice system have had no impact on persuading him to reform. We conclude that Rowe's seven and one-half year sentence is not inappropriate. *See Cuyler v. State*, 798 N.E.2d 243 (Ind. Ct. App. 2003) (consecutive sentences not inappropriate despite guilty plea and expression of remorse where defendant had lengthy criminal history and previous probation violations), *trans. denied*.

Judgment affirmed.

NAJAM, J., and DARDEN, J., concur.