

## MEMORANDUM DECISION

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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Gregory Phillips Fields, II,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

December 12, 2022  
Court of Appeals Case No.  
22A-CR-1334  
  
Appeal from the  
Henry Circuit Court  
  
The Honorable  
Kit C. Dean Crane, Judge  
  
Trial Court Cause No.  
33C02-2201-F6-13

**Pyle, Judge.**

## Statement of Case

[1] Gregory Phillips Fields, II (“Fields”) pleaded guilty to Level 6 felony resisting law enforcement.<sup>1</sup> At sentencing, the trial court imposed a two-year sentence and denied Fields’ request for probation. On appeal, Fields claims his sentence is inappropriate because the denial of his request for probation prevents him from immediately entering a residential treatment program for his substance abuse problems. Concluding that Fields’ sentence is not inappropriate, we affirm the trial court.

[2] We affirm.

## Issue

Whether Fields’ sentence is inappropriate.

## Facts

[3] On January 11, 2022, a New Castle police officer observed Fields drive his car over the speed limit and cross the center line, so the officer activated his emergency lights to stop Fields. After briefly slowing down, Fields sped away at more than ninety miles per hour, and the officer gave chase. Fields nearly struck three vehicles as he swerved through traffic. Once Fields left Henry County and entered Delaware County, officers from other police departments joined the chase, and some of those officers placed “stop sticks” on the road.

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<sup>1</sup> See IND. CODE § 35-44.1-3-1.

(App. Vol. 2 at 17). Fields nearly hit an officer's car and struck one of the stop sticks, which deflated one of his tires. But Fields sped on, showering the highway with sparks as his wheel scraped the pavement. Fields continued darting between vehicles and nearly lost control of his car. When Fields entered Madison County, he drove over another stop stick but continued to flee. As he entered Alexandria, he drove through a third set of stop sticks, which finally stopped Fields.

[4] Officers removed Fields and his two passengers from Fields' car and brought a canine officer to the scene. The canine indicated that narcotics were in Fields' car, and once officers searched the car, they found methamphetamine and a "small bag [of] green/brown unknown material." (App. Vol. 2 at 18). Fields admitted that during the chase, he had ingested a large amount of methamphetamine.

[5] On January 11, 2022, the State charged Fields with Level 6 felony resisting law enforcement, Level 6 felony maintaining a common nuisance, Level 6 felony obstruction of justice, and Class C misdemeanor reckless driving. Fields agreed to plead guilty to Level 6 felony resisting law enforcement, and the State agreed to dismiss the remaining charges. The plea agreement left the terms of Fields' sentence to the trial court's discretion.

[6] At a May 12, 2022 hearing, the trial court accepted Fields' plea, and the State dismissed the remaining charges. Fields then testified that he had been struggling with drugs and alcohol for twelve years. He testified that while he

was incarcerated during the pendency of this case, he had reached out to “Grace House,” a substance abuse treatment center, which indicated it would immediately accept him into its program. (Tr. Vol. 2 at 16). Fields also said that he hoped to obtain long term substance abuse treatment through the “Indiana Dream Team.” (Tr. Vol. 2 at 16). He acknowledged that the program had not accepted him, but he claimed the program would accept him once he had completed a phone interview. Finally, Fields stated, “Your Honor, I’d just ask that I be given the chance to get my life straight again. I’ve been on drugs for the last twelve years, and I’ve steadily gotten worse and worse and worse.” (Tr. Vol. 2 at 17). Fields asked for a two-year suspended sentence to be served on probation so he could immediately enter a long-term residential treatment program.

- [7] The trial court imposed a two (2)-year sentence as Fields had requested but denied Fields’ request to suspend the entire sentence to probation because it found that Fields was “not a good candidate for probation.” (Tr. Vol. 2 at 20). In the past, trial courts have revoked or terminated Fields’ probation four times, and he had failed to comply with requirements of community corrections and home detention. The trial court cited Fields’ prior convictions as an aggravating circumstance. Fields has been convicted of nine felonies and eight misdemeanors. Four of the seventeen convictions were for resisting law enforcement. As a mitigating factor, the trial court noted that Fields accepted responsibility for his actions by pleading guilty, but it found that Fields “g[o]t

something in exchange for the guilty plea” because the State had agreed to dismiss three charges. (Tr. Vol. 2 at 20). Fields now appeals his sentence.

## Decision

- [8] Fields contends his sentence is inappropriate but does not claim that his two-year term is inappropriate. Rather, he claims that the denial of his request for probation and placement in the Henry County Jail is inappropriate because it prevents him from immediately enrolling in a long term, residential program to treat his addictions.
- [9] We may revise a sentence if it is inappropriate when considering the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). A defendant carries the burden to persuade us that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). The principal role of a Rule 7(B) review is to “leaven the outliers [] and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived correct result in each case.” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). Whether a sentence is inappropriate turns on “the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case.” *Id.* at 1224. We do not decide whether another sentence is more appropriate but instead determine whether the imposed sentence is inappropriate. *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012). Thus, we defer to the trial court unless a defendant presents compelling evidence about the nature of the offense and

the character of the offender. *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). Compelling evidence includes crimes accompanied by “restraint, regard, and lack of brutality” and a character evincing “substantial virtuous traits.” *Id.*

[10] Moreover, when a defendant like Fields challenges the placement of a sentence, he faces the arduous task of proving that the given placement is inappropriate and not simply that another placement would be more appropriate. *Fonner v. State*, 876 N.E.2d 340, 344 (Ind. Ct. App. 2007). This is because trial courts are in the best position to know the “availability, costs, and entrance requirements of community corrections placement in a specific locale.” *Id.*

[11] As to the nature of his offense, Fields admits his high-speed driving endangered other people. However, he claims such endangerment is already reflected in the element of his conviction for Level 6 felony resisting law enforcement that distinguishes it from the Class A misdemeanor version of the offense—the use of a vehicle. *Compare* I.C. § 35-44.1-3-1(a)(1), (c)(1)(A) and I.C. § 35-44.1-3-1(a). Even so, when we assess the nature of the offense, we examine its details and circumstances, not just its elements. *See Treadway v. State*, 924 N.E.2d 621, 624 (Ind. 2010) (noting that the defendant’s crimes were “horrific and brutal”); *see also Croy v. State*, 953 N.E.2d 660, 664 (Ind. Ct. App. 2011). Here, Fields exceeded ninety miles per hour as he led police through a multi-county chase. He endangered his two passengers, nearly struck four vehicles, drove through two stop-sticks barriers, continued to drive with one deflated tire, nearly lost control of his car, and stopped only when he struck a third stop-sticks barrier. During the chase, he ingested some of the methamphetamine he was

transporting, and he was transporting another suspicious-looking substance. This wildly reckless behavior shows that Fields' offense was not one accompanied by "restraint, regard, and lack of brutality." *See Stephenson*, 29 N.E.3d at 122. Thus, Fields' placement in the Henry County Jail is not inappropriate considering the nature of his offense.

[12] As to his character, Fields claims the denial of his request for probation is inappropriate because it prevents him from immediately entering a long-term residential substance abuse treatment program. To be sure, we have found a defendant's willingness to seek substance abuse treatment may reflect well on his character, but substance abuse can reflect poorly on a defendant's character when he was aware of his problems yet did nothing. *See Marley v. State*, 17 N.E.3d 335, 341 (Ind. Ct. App. 2014) (defendant's substance abuse problem did not weigh in favor of a lesser sentence because he never sought treatment until after his arrest), *trans. denied*; *see also Hape v. State*, 903 N.E.2d 977, 1002 (Ind. Ct. App. 2009) (noting that a history of substance abuse may be an aggravating circumstance where the defendant is aware of a substance abuse problem but has not taken appropriate steps to treat it), *trans. denied*. Fields has battled addictions for twelve years, but he presents no evidence that he ever sought treatment until he was arrested and incarcerated for this offense. *See Marley*, 17 N.E.3d at 341. Therefore, his substance abuse problems do not weigh in favor of placing him on probation. *See id.*

[13] Also, the trial court's decision to deny Fields' request for probation is not inappropriate because Fields has often squandered his opportunities for

probation. From 1999–2021, trial courts have revoked or terminated Fields’ probation four times, and Fields was on probation when he committed this crime. Also, Fields once failed to abide by the terms of his community corrections assignment and another time failed to comply with the terms of home detention. We thus agree with the trial court’s finding that Fields was “not a good candidate for probation.” (Tr. Vol. 2 at 20).

[14] Fields’ seventeen convictions also do not reflect well on his character. Even more concerning is that four of those convictions were for resisting law enforcement, the crime at issue here.<sup>2</sup> A sentence is not inappropriate when a defendant commits “the same crimes again and again.” *Heyen v. State*, 936 N.E.2d 294, 305–06 (Ind. Ct. App. 2010), *trans, denied*. Accordingly, Fields’ substance abuse and criminal record do not show substantial virtuous traits, so the denial of his request for probation and placement in the Henry County Jail is not inappropriate considering his character. *See Stephenson*, 29 N.E.3d at 122.

[15] Affirmed.

Bradford, C.J., and May, J., concur.

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<sup>2</sup> After the State charged Fields in this case, the State filed six charges against Fields in Delaware County, and two of those charges alleged that Fields resisted law enforcement.