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**IN THE
COURT OF APPEALS OF INDIANA**

DEUNDRAE SPRAGGINS,)

Appellant-Defendant,)

vs.)

STATE OF INDIANA,)

Appellee-Plaintiff.)

No. 49A02-0603-CR-216

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-0510-CM-185435

October 31, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Deundrae Spraggins pleaded guilty to Battery, a class A misdemeanor. As a condition of probation, the trial court ordered Spraggins to have no contact with the victim. Spraggins appeals from this condition of probation.

We affirm.

Spraggins was the live-in boyfriend of Carla Buchanan, with whom he had a five-year-old daughter. Buchanan's other children, including fourteen-year-old C.W., also lived in the home with Buchanan and Spraggins. On September 25, 2005, Spraggins became angry when he observed a picture of C.W. and her father displayed on a shelf in the living room. He went to C.W.'s bedroom and ordered her to remove the picture. When C.W. spoke back to him, Spraggins acted as if he was going to hit her. C.W. went into the bathroom with her mother and slammed and locked the door. Spraggins then kicked the door and it eventually opened. Buchanan stood in front of her daughter, but Spraggins pushed her to the side and struck C.W. on the arm with his belt, causing injury to the child. The police were called in response to this incident, and Spraggins subsequently moved out of the home.

On October 28, 2005, the State charged Spraggins with battery, as a class A misdemeanor.¹ Thereafter, on January 4, 2006, Spraggins pleaded guilty as charged. The trial court then sentenced him to 365 days in the Marion County Jail, awarded him 1 day of jail credit and 1 day of good time credit, suspended the remaining 363 days, and placed

¹ A pretrial no-contact order was issued prohibiting Spraggins from having any contact with C.W. during the pendency of the case. Spraggins later admitted that he had violated this order by going to C.W.'s home on several occasions at the request of C.W.'s mother.

him on probation for 363 days. As special conditions of probation, the trial court ordered Spraggins to complete twelve weeks of anger management classes and directed Spraggins to have no contact with C.W. On appeal, Spraggins challenges only the no-contact order issued by the court.

Citing Indiana Appellate Rule 7(B),² Spraggins claims that the trial court's issuance of the no-contact order was inappropriate in light of the nature of the offense and the character of the offender. He specifically argues that the no-contact order was inappropriate because he had a family relationship with the victim, had a child by the victim's mother, and this was his first offense.

We initially observe that the no-contact order was imposed as a condition of Spraggins's probation. His challenge, therefore, is to the probation condition rather than to the sentence itself. Accordingly, the App. R. 7(B) standard of review for sentences does not apply.

A trial court is afforded broad discretion in establishing conditions of probation. "Probation is a 'matter of grace and a conditional liberty that is a favor, not a right.'" As such, trial courts are vested with the discretion to establish conditions of probation in an effort to safeguard the general public and to mold law-abiding citizens.

Cox v. State, 792 N.E.2d 878, 884 (Ind. Ct. App. 2003) (citations omitted). Further, "when a court suspends part of a sentence, it can certainly condition that suspension on no-contact." *Jarrett v. State*, 829 N.E.2d 930, 932 (Ind. 2005).

² The Rule provides: "The 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."

Here, Spraggins battered the fourteen-year-old daughter of his then live-in girlfriend. Despite Spraggins's in-court apology, expression of affection toward the victim, and promise that this would never happen again, C.W. clearly stated that she wanted the trial court to impose a no-contact order against Spraggins. Additionally, on more than one occasion, the trial court indicated that it could "tell by [C.W.'s] demeanor" that she wanted the no-contact order in place. *Transcript* at 21.³

We conclude that the trial court did not abuse its discretion by granting the child-victim's request for a no-contact order against her batterer. While everyone certainly hopes that this was a one-time incident, as Spraggins claims, this condition of his probation will help provide C.W. with added assurance and protection.

³ When Spraggins pleaded with the court regarding the no-contact order, the following occurred:

[Court]: Sir, that's what I-I think that's the best thing.

[Spraggins]: I'm just missing out on the whole family thing.

[Court]: Well, sir, that's not her fault. It's not my fault. So if you have to look at anybody to put some blame, it's got to rest with you. Because quite frankly, if you were my boyfriend, you wouldn't be anymore is how I see it. If you put your hands on one (1) of my kids, you wouldn't be my boyfriend any more. Even if I had a kid by you, you wouldn't be my boyfriend any more. If she wants to keep you as a boyfriend, that's her business. But you still wouldn't have any contact with my child. That's just the way it goes, sir.

* * *

[Spraggins]: If she was to change her mind on that No Contact Order, how would I go about---

[Court]: Are you going to try to talk her into changing her mind?

[Spraggins]: No, no, no. I'm just saying she may sit down and think about it herself....

[Court]: You know, judging by her demeanor, I don't think that's going to happen anytime soon. Because I really don't think she likes you. Would I be correct, [C.W.]? I really don't think she likes you. And so it doesn't seem like she's going to change her mind. And if she does, she needs to contact the Prosecutor's Office. But you know, you have a right to have this Protective Order, and nobody can change it. Your mother can't make you change it. He can't make you change your mind. If that's what you want to do, just by doing absolutely nothing, it stays in effect....

Id. at 22, 24-25.

Judgment affirmed.

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