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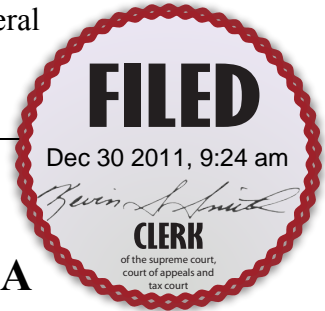
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**IN THE
COURT OF APPEALS OF INDIANA**

WILLIAM SCANLON,

Appellant,

vs.

STATE OF INDIANA,

Appellee.

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No. 49A02-1106-CR-504

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Anne Flannelly, Judge Pro Tempore
Cause No. 49G22-1007-FD-52450

December 30, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

William Scanlon (“Scanlon”) was convicted in Marion Superior Court of Class D felony resisting law enforcement and sentenced to the maximum sentence of three years. Scanlon appeals and argues that his sentence is inappropriate in light of the nature of his offense and his character.

We affirm.

Facts and Procedural History

In the early morning hours of July 4, 2010, Scanlon and Derrick Odom (“Odom”) were in Broad Ripple in Scanlon’s green Pontiac. Later that morning, the Indianapolis Metropolitan Police Department (“IMPD”) received a report of a robbery in Broad Ripple. A detective investigating the robbery had seen Scanlon’s Pontiac in the area and requested that uniformed officers stop the car. Officer Michael Birch (“Officer Birch”), a uniformed IMPD bicycle officer, saw Scanlon’s Pontiac at an intersection and approached the car. Officer Birch ordered Scanlon to stop. Scanlon instead drove through the stop light at the intersection, and two marked IMPD patrol cars gave chase. Scanlon then led the police on a chase for approximately five minutes, running through several stop signs. Scanlon eventually stopped and both he and Odom were arrested.

On July 6, 2010, the State charged Scanlon with Class D felony resisting law enforcement.¹ At the conclusion of a May 12, 2011 trial, the jury found Scanlon guilty as charged. At a sentencing hearing held on May 19, 2011, Scanlon claimed that he had an infant child and two other children who had just turned eighteen years of age. Scanlon also claimed his mother was in poor health. Scanlon admitted that he was on parole at

¹ The State also charged Odom with Class B felony robbery.

the time of the instant offense, and also admitted that he had an extensive history of criminal activity. Scanlon requested that the trial court sentence him to the advisory sentence and suspend all but the portion he had already served in jail, which was 320 actual days. The trial court found that Scanlon's history of delinquent and criminal activity was an aggravating factor, as was the fact that he committed the instant offenses while on parole. The court acknowledged as a mitigator that Scanlon had an infant child, but still found that the aggravators far outweighed this mitigator and sentenced Scanlon to the maximum sentence of three years. Scanlon now appeals.

Discussion and Decision

Scanlon's only claim on appeal is that his sentence is inappropriate. Pursuant to Indiana Appellate Rule 7(B), we may revise a sentence otherwise 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." Although we have the power to review and revise sentences, "[t]he principal role of appellate review should be to attempt 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).

Scanlon also notes that "[t]he maximum possible sentences are generally most appropriate for the worst offenders." Wells v. State, 904 N.E.2d 265, 274 (Ind. Ct. App. 2009), trans. denied (citing Buchanan v. State, 767 N.E.2d 967, 973 (Ind. 2002)). But this is "not an invitation to determine whether a worse offender could be imagined, as it

is always possible to identify or hypothesize a significantly more despicable scenario, regardless of the nature of any particular offense and offender.” Id. By stating that maximum sentences are ordinarily appropriate for the worst offenders, we refer generally to the class of offenses and offenders that warrant the maximum punishment. Id. But this encompasses a considerable variety of offenses and offenders. Id. We therefore concentrate less on comparing the facts of this case to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced and what it reveals about his character. Id.

Although Scanlon attempts on appeal to diminish the nature of his offense, we note that he not only fled from a uniformed police officer after being ordered to stop, he sped through a red light and continued to flee from pursuing officers for several minutes, running through stop signs. Although we agree with Scanlon that there was no evidence that pedestrians were required to “maneuver to avoid” being hit by his car, Appellant’s Br. at 6, we can safely say that Scanlon’s behavior endangered the safety of others. There was evidence that Scanlon fled from the police at a time when the local streets were busy with customers leaving bars and nightclubs. One of the pursuing officers described Scanlon as having ignored the people on the streets as he fled.

We further note that Scanlon’s character clearly supports the trial court’s decision to impose the maximum three-year sentence. A defendant’s criminal history is informative when considering the character of the offender. See Holloway v. State, 950 N.E.2d 803, 807 (Ind. Ct. App. 2011). Scanlon has a history of delinquent behavior that began in 1986 when he was only fifteen years old, and includes adjudications for actions

that, if committed by an adult, would have been Class A misdemeanor battery, Class D felony attempted auto theft, and Class D felony auto theft. At the time of sentencing, Scanlon had accumulated an adult criminal history that included seven misdemeanor convictions and five felony convictions. Importantly, several of these prior convictions were for resisting law enforcement, the same as the instant offense. See id. (noting that the significance of a defendant's criminal history in assessing a defendant's character varies based on the gravity, nature, and number of prior offenses in relation to the current offense). Also telling of Scanlon's character is that he was on parole at the time he committed the instant offense.

At the time of sentencing, Scanlon was a forty-one-year-old who had been afforded numerous opportunities to reform his history of criminal activity, yet continued to commit crimes even while on parole. After giving due consideration to the trial court's sentencing decision, we are unable to say that Scanlon has met his appellate burden of showing that his three-year sentence is inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

FRIEDLANDER, J., and RILEY, J., concur.