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**IN THE
COURT OF APPEALS OF INDIANA**

RODGER W. NEWPORT,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 63A01-0708-CR-401
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE PIKE CIRCUIT COURT
The Honorable Jeffrey L. Biesterveld, Judge
Cause No. 63C01-0503-FC-158

December 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Rodger Newport appeals his four-year sentence for child molesting, a Class C felony. We affirm.

Issue

Newport presents one issue for our consideration, whether his sentence is appropriate in light of the nature of the offense and the character of the offender.

Facts

Between 1995 and 2002, Newport fondled and touched the breasts and vagina of his adopted daughter. She was under the age of fourteen at the time. In 2004, he attempted to fondle and touch the breasts of another one of his daughters. On March 10, 2005, the State charged Newport with one count of a Class C felony child molesting and one count of Class C felony attempted child molesting.

On the morning of trial, Newport pled guilty to one count of child molesting, and the State dismissed the attempted child molesting charge. The trial court held a sentencing hearing on June 29, 2007, and sentenced Newport to four years in the Department of Correction. The trial court also ordered him to register as a sex offender.

Analysis

Newport committed these crimes before Indiana enacted the advisory sentencing scheme. We therefore apply the presumptive sentencing scheme in effect at that time. Gutermuth v. State, 868 N.E.2d 427, 432 n.4 (Ind. 2007). The presumptive sentence for a Class C felony was four years. See Ind. Code § 35-50-2-6 (2004) (providing the sentencing range for Class C felonies from two year to eight years, with a presumptive

sentence of four years). This presumptive sentence was “the starting point the Legislature has selected as an appropriate sentence for the crime committed.” Childress v. State, 848 N.E.2d 1073, 1081 (Ind. 2006).

The presumptive four-year sentence is precisely what the trial court imposed here. The trial court issued an oral and written sentencing order finding one aggravating factor and one mitigating factor in equal balance with each other. Newport’s position having care, custody, and control of the victim was the aggravating factor. Newport’s history of a law-abiding life was the mitigating factor.

We proceed to consider whether this sentence is appropriate under Rule 7(B) in light of the nature of the offense and Newport’s character. Although Rule 7(B) does not require us to be “extremely” deferential to a trial court’s sentencing decision, we still must give due consideration to that decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. “Additionally, a defendant bears the burden of persuading the appellate court that his or her sentence is inappropriate.” Id.

The nature of the offense here is particularly disturbing. Newport molested his adopted daughter. He acted as her father and betrayed her trust. This offense inflicted immeasurable mental and emotional harm upon this child, harm that she will likely carry with her throughout her adult life. The betrayal of this trust and disregard of his daughter’s safety and well-being reflects poorly on Newport’s character. Nothing particularly outstanding was presented regarding positive elements of his character. Although we acknowledge that Newport has led an otherwise law-abiding life, we cannot

find that this factor merits a reduction or deviation from the presumptive four-year term. Nor do we find that his guilty plea merits much weight, considering that he did not plead guilty until the eve of trial and received the benefit of a dropped charge. See McElroy v. State, 865 N.E.2d 584, 591-92 (Ind. 2007) (reasoning that a guilty plea may not be significantly mitigating when the defendant receives a substantial benefit in return, or when the defendant does not show acceptance of responsibility). We cannot say that Newport's four-year sentence is inappropriate in light of the nature of the offense and his character.

Conclusion

The four-year sentence imposed is appropriate in light of the nature of the offense and Newport's character. We affirm.

Affirmed.

SHARNACK, J., and VAIDIK, J., concur.