ATTORNEY FOR APPELLANT:

BRYAN M. TRUITT
Valparaiso, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

ANN L. GOODWIN
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

MAURICE THOMAS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 64A03-0707-CR-316
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE PORTER SUPERIOR COURT
The Honorable William Alexa, Judge
Cause No. 64D02-0109-CF-7688

December 13, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Maurice Thomas appeals his sentence for dealing cocaine as a class B felony.[1] Thomas raises one issue, which we revise and restate as whether Thomas's sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

The relevant facts follow. On September 13, 2001, a confidential informant went to Donald Arndt's residence, and Thomas was present in Arndt's home. The confidential informant handed Arndt money, and Thomas went to a back room and returned with two baggies of cocaine that he gave to Arndt, who then gave the cocaine to the confidential informant.

The State charged Thomas with dealing in cocaine as a class B felony and later charged Thomas with dealing in cocaine as a class A felony.[2] Thomas pleaded guilty to dealing in cocaine as a class B felony, and the State dismissed the remaining charge. The plea agreement stated that the parties agreed that Thomas would serve a minimum of ten years in the Department of Correction with a cap of incarceration of fifteen years. The plea agreement also stated that $2,135 seized was to be forfeited to the Porter County Drug Task Force.

The trial court found "what his past life has been, and the impact that it will have on [Thomas's mother] and the family" as mitigating circumstances and Thomas's

---

[1] Ind. Code § 35-48-4-1 (2004) (subsequently amended by Pub. L. No. 151-2006, § 22 (eff. July 1, 2006)).

criminal history as an aggravator. Sentencing Transcript at 18. On October 6, 2003, the trial court sentenced Thomas to fourteen years in the Department of Correction. On June 11, 2007, Thomas filed a notice of belated appeal.

The sole issue is whether Thomas's sentence is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

Our review of the nature of the offense reveals that a confidential informant went to Arndt's residence and Thomas was present in Arndt's home. The confidential informant handed Arndt money, and Thomas went to a back room and returned with two baggies of cocaine that he gave to Arndt, who gave the cocaine to the confidential informant. Thomas stated that he was "in with selling drugs with Don to a C.I. so we could buy more drugs to do . . . ." Appellant's Appendix at 55.

Our review of the character of the offender reveals Thomas pleaded guilty to dealing in cocaine as a class B felony. However the State dismissed the charge of dealing in cocaine as a class A felony in exchange. Thomas first became "affiliate[ed]" with a

---

[2] Id.

gang when he was eight years old. Appellant's Appendix at 62. Thomas's mother described him as "one of the best fathers [she's] ever seen." Sentencing Transcript at 9. However, Thomas has six children by four different women, does not pay child support, and does not have contact with two of his children. After Thomas's mother broke her back, Thomas was a "big help to [her] as far as doctor's appointments and getting groceries in and doing any kind of heavy work." Id. at 9-10. In 1995, Thomas "was facing legal trouble so he checked himself in" to Broadway Methodist Hospital for drug treatment. Appellant's Appendix at 67. Thomas failed to follow the Hospital's recommendation that he attend a halfway house and continue outpatient treatment. Thomas used cocaine on a daily basis when he was not incarcerated from the age of twenty-two to the age of twenty-nine, when he committed the instant offense.

Thomas's criminal history reveals that Thomas was convicted of attempted unlawful possession of a stolen vehicle, attempted auto theft, possession of burglary tools, and criminal damage to property in 1991. In 1992, Thomas was convicted of driving while suspended as a class A misdemeanor. In 1994, Thomas was convicted of reckless homicide as a class C felony, resisting law enforcement as a class D felony, and had his probation revoked. In 2000, Thomas was convicted of delivery of marijuana as a class D felony. In 2003, Thomas was charged with two counts of possession of marijuana and resisting law enforcement, which were pending at the time of the presentence investigation report.

After due consideration of the trial court's decision, we cannot say that the sentence is inappropriate in light of the nature of the offense and the character of the offender.[3] See, e.g., Field v. State, 843 N.E.2d 1008, 1012 (Ind. Ct. App. 2006) (concluding that the defendant's sentence of sixteen years for conspiracy to commit dealing in a schedule II controlled substance was not inappropriate).

For the foregoing reasons, we affirm Thomas's sentence for dealing cocaine as a class B felony.

Affirmed.

RILEY, J. and FRIEDLANDER, J. concur

[3] Thomas argues that his sentence is inappropriate in light of Arndt's sentence of six years. **(Appellant's Brief at 9-10)** We cannot compare Thomas's sentence with the sentence of his codefendant because the record does not contain Arndt's criminal history or any other information relating to Arndt's sentence.