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IN THE
COURT OF APPEALS OF INDIANA

GEORGE E. WINGET,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 03A05-0706-CR-335
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE BARTHOLOMEW SUPERIOR COURT
The Honorable Chris D. Monroe, Judge
Cause No. 03D01-0701-FD-59

December 26, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

George E. Winget appeals his sentence and the calculation of his credit time for Possession of Chemical Reagents or Precursors with Intent to Manufacture a Controlled Substance, as a Class D felony.[1] We affirm.

Issues

Winget raises two issues on appeal, which we restate as follows:

I. Whether his sentence is inappropriate; and

II. Whether the trial court erred in calculating his credit time.

Facts and Procedural History

In 2003, Winget pled guilty to a Class C felony unrelated to the instant conviction. On August 31, 2006, he was paroled.

On January 8, 2007, Winget was stopped for an automobile infraction and his vehicle was searched. Based upon items discovered in the vehicle, the State charged Winget with Possession of Methamphetamine and Possession of Chemical Reagents or Precursors with Intent to Manufacture a Controlled Substance, both as Class D felonies. Winget pled guilty to the latter charge, while the State dismissed the first.

The trial court sentenced him to the maximum three-year term of imprisonment, to be fully executed and served consecutive to the 2003 conviction. Also, the trial court found that Winget had been in jail thirteen days and therefore ordered him to receive twenty-six days of credit time.

He now appeals.

Discussion and Decision

I. Independent Review of Sentence

Under Indiana Appellate Rule 7(B), this "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." See IND. CONST. art. VII, § 6. A defendant "'must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.'" Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007) (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

The record on appeal contains little information regarding the nature of the offense. However, in an affidavit, Columbus Police Officer James Myers stated that the following were found in Winget's automobile: a large knife, a coffee filter which field-tested positively for methamphetamine, salt, pseudoephedrine, "a bottle of liquid fire," and a propane tank modified to store anhydrous ammonia. Appendix at 13.

As to Winget's character, the trial court found his criminal history to be "a significant aggravator." Transcript at 11. Indeed, this was his fourth drug-related felony. When he committed the instant offense, he had been out of prison less than five months for a similar conviction. Meanwhile, the trial court found no mitigating circumstances and noted that, while Winget pled guilty, he received a benefit in the State's dismissal of the first count. Based upon our review of the record and the sentence, Winget has not established that his sentence was inappropriate.

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[1] Ind. Code § 35-48-4-14.5.

II. Calculation of Credit Time

Winget also contends that the trial court erred in calculating his credit time. A person awaiting trial or sentencing earns one day of credit time for each day he is imprisoned. Ind. Code § 35-50-6-3. "[W]here a defendant is confined during the same time period for multiple offenses for which he is convicted and sentenced to consecutive terms, credit time is applied against the aggregate sentence, not against each individual sentence." Bennett v. State, 802 N.E.2d 919, 922 (Ind. 2004) (quoting Lanham v. State, 540 N.E.2d 612, 613 (Ind. Ct. App. 1989), trans. denied).

The trial court concluded that Winget was "confine[d] as a result of this charge" from January 9 to January 22 and determined that this period of confinement constituted thirteen actual jail days or twenty-six days of credit time. App. at 28. Winget contends that his confinement for purposes of this calculation was 150 actual days – from January 8 to June 6, the date of sentencing. Specifically, Winget argues that there is no evidence in the record establishing that January 22 should be the last day included in the calculation. During the sentencing hearing, the trial court stated the following:

> You will receive 149 days credit probably. Again as we . . . . You weren't here I believe earlier when we talked to another person. We will check with the Department of Correction to see if that 149 days is applied to that case or to this one. I suspect there's . . . is there a parole hold on the jail paperwork? Okay. I do not believe that you are entitled to credit for both of those in part because the Court is ordering the sentences to be run consecutively [to] each other.

Tr. at 11. This statement, however, is merely an equivocation regarding the calculation.

The Chronological Case Summary is an official record of the trial court. Ind. Trial

Rule 77(B); Anderson v. Horizon Homes, Inc., 644 N.E.2d 1281, 1287 (Ind. Ct. App. 1995), trans. denied. The trial court stated plainly in its Sentencing Order and its CCS that a parole warrant was served on Winget on January 22 for the 2003 conviction. In this regard, another venue may be available for Winget to seek credit for the subsequent time served while awaiting disposition of the parole violation. Regardless, he would not be entitled to apply the same credit to each offense. As stated earlier, credit time is applied against the aggregate sentence. Bennett, 802 N.E.2d at 922.

Finally, Winget argues that the calculation should have included January 8. However, the record supports the trial court's decision to begin the calculation as of January 9. Although Winget was arrested on January 8, the Presentence Investigation Report indicates that Winget was "booked into jail 1/9/07." App. at 1. For these reasons, we conclude that the trial court did not err in calculating Winget's credit time.

Conclusion

Winget's sentence was not inappropriate. The trial court did not err in calculating his credit time.

Affirmed.

NAJAM, J., and CRONE, J., concur.