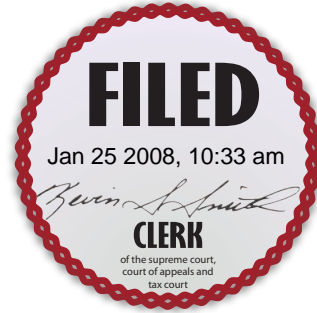


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

LUIS VARGAS,)

Appellant-Defendant,)

vs.)

STATE OF INDIANA,)

Appellee-Plaintiff.)

No. 03A01-0705-CR-240

APPEAL FROM THE BARTHOLOMEW COURT
The Honorable Chris D. Monroe Judge
Cause No. 03D01-0701-FC-95

January 25, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Luis Vargas (“Vargas”) pleaded guilty in Bartholomew Superior Court to Class C felony burglary and Class A misdemeanor domestic battery and was ordered to serve a sentence of six years for the burglary conviction and one year suspended for the domestic battery conviction. Vargas appeals and argues that the sentence for burglary was inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

Facts and Procedural History

On December 29, 2006, police responded to an alarm at the Cork Liquor Store where a number of bottles of liquor had been stolen and the door was broken. On January 12, 2007, the police received a tip that Vargas was responsible for the burglary.

On January 17, 2007, Vargas was charged with Class C felony burglary and Class D felony theft. On April 2, 2007, Vargas pled guilty to Class C felony burglary and Class A misdemeanor domestic battery under a different cause number. On May 15, 2007, the trial court sentenced Vargas to six years for the burglary and one year suspended for the domestic battery. The remaining charges were dismissed. Vargas appeals. Additional information will be provided as needed.

Discussion and Decision

Appellate courts have the constitutional authority to revise a sentence if, after consideration of the trial court’s decision, the court concludes the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B) (2003); Marshall v. State, 832 N.E.2d 615, 624 (Ind. Ct. App. 2005), trans. denied. “[A] defendant must persuade the appellate court that his or her sentence

has met the inappropriateness standard of review.” Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007). Additionally, “[S]entencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion.” Id. at 490.

Vargas argues that his sentence is inappropriate. As noted by Vargas, while the advisory sentence is four years, the possible range of sentences is from two years to eight years. We agree that this was a run of the mill burglary in which no one was injured aside from the property damage. However, Vargas’s character alone would support the sentence.

Vargas’s character does not reflect an individual who has respect for the law. At age 19, Vargas pled guilty to his first burglary. Now at age 22, Vargas has committed a second burglary. In fact, Vargas was on probation for the first burglary conviction at the time he committed the second burglary. According to testimony from Vargas’s probation officer, since his conviction on the first burglary charge, he has failed to comply with the requirements of the probation department and been given many opportunities to succeed. Additionally, he admitted to a third violation of probation for his first burglary after his plea of guilty in this case.

Vargas argues that his alcoholism and drug abuse led him to this point and notes that he has taken part in substance abuse programs. However, Vargas continued to use both drugs and alcohol until the instant offense occurred. Accordingly, we conclude that

Vargas's six-year sentence is not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.