

Case Summary

Appellant-Defendant Ronald Druschel (“Druschel”) appeals his sentence for Escape, as a Class C felony.¹ We revise his sentence from eight years imprisonment imposed by the trial court to eight years with three years suspended.

Issue

Druschel raises the single issue of whether his sentence is inappropriate.

Facts and Procedural History

In November of 2006, Druschel was arrested at his home for allegedly battering his wife and father. Officer Marvin Smith (“Officer Smith”) detected the smell of alcohol on Druschel’s breath and observed several beer bottles in the living room of the home. Druschel was placed in restraints with his hands behind his back and put in the back of Officer Smith’s patrol car. At the conclusion of his interviews with the victims, Officer Smith returned to his patrol car to find the back window rolled down and an empty backseat. Druschel was found shortly thereafter walking along a road in Ripley County.

On November 20, 2006, the State charged Druschel with Battery Resulting in Serious Bodily Injury, as a Class C felony,² Battery on an Endangered Adult, as a Class D felony,³ Domestic Battery, as a Class A misdemeanor,⁴ and Escape, as a Class C felony. Druschel

¹ Ind. Code § 35-44-3-5(a).

² Ind. Code § 35-42-2-1(a)(3).

³ Ind. Code § 35-42-2-1(a)(2)(E).

⁴ Ind. Code § 35-42-2-1.3.

and the State entered into a plea agreement where Druschel would plead guilty to the Escape charge, and the State would dismiss the remaining three charges. The agreement included a recommended sentence of eight years in the Department of Correction with three years suspended. However, the trial court rejected the tendered plea agreement and set the date for a jury trial. Subsequently, another plea agreement was submitted to the trial court with the same terms except the sentence would be left to the discretion of the trial court. The trial court accepted the revised plea agreement and sentenced Druschel to the maximum sentence of eight years.

Druschel now appeals.

Discussion and Decision

Druschel contends that the sentence imposed by the trial court is inappropriate under Indiana Appellate Rule 7(B). Our Supreme Court recently reviewed the standard by which appellate courts independently review criminal sentences:

Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution authorize independent appellate review and revision of a sentence through Indiana Appellate Rule 7(B), which provides that a 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. The burden is on the defendant to persuade us that his sentence is inappropriate.

Reid v. State, 876 N.E.2d 1114, 1116 (Ind. 2007) (internal quotation and citations omitted).

Here, the trial court imposed the maximum sentence⁵ of eight years imprisonment

⁵ For a Class C felony, the statutory sentence range is between two and eight years, with four years being the advisory sentence. Ind. Code § 35-50-2-6.

based on finding Druschel's criminal history to be an aggravating circumstance and his decision to plead guilty as a mitigating circumstance. Druschel argues that his sentence is inappropriate because the nature of the offense is not egregious.

As for the nature of the offense, Druschel exited a police car and left the scene after being placed under arrest. When he was found later that morning, Druschel willingly surrendered to the police.

As for the character of the offender, Druschel admits that he has an alcohol addiction. This fact is readily apparent from Druschel's criminal history that includes at least seven alcohol-related crimes ranging from public intoxication to operating a vehicle while intoxicated. This nexus between the current crime and Druschel's prior offenses makes Druschel's criminal history a significant factor in determining the appropriate sentence, warranting an enhanced sentence. See Morgan v. State, 829 N.E.2d 12, 15 (Ind. 2005). Furthermore, Druschel's lengthy criminal history also includes numerous probation violations.

In review, the character of the offender weighs towards the maximum sentence while the nature of the offense militates towards a lesser sentence. In the first plea agreement, the State and Druschel agreed to a sentence of eight years imprisonment with three years suspended. We find a sentence of eight years with three years suspended to be appropriate and revise it accordingly. We direct the trial court to enter the revised sentence.

Revised and remanded.

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