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IN THE
COURT OF APPEALS OF INDIANA

STANLEY MOONEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0705-CR-422
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert Altice, Judge
The Honorable Amy Barbar, Magistrate
Cause No. 49G02-0607-FB-126796

December 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Stanley Mooney appeals his ten-year aggregate sentence for class C felony robbery, class B felony unlawful possession of a firearm by a serious violent felon, and a habitual offender finding. We affirm.

Issue

The sole issue on appeal is whether Mooney's sentence is appropriate.

Facts and Procedural History

On July 12, 2006, Mooney approached John Goodwin on West 86th Street in Indianapolis. Goodwin was on his way to the bank and was carrying a money deposit bag. Mooney took Goodwin's money bag and fled on foot. Later that day, police apprehended Mooney at his Indianapolis home. While there, they found a .38-caliber revolver under Mooney's bed. Mooney had previous convictions for class B felony robbery in 2002 and for class C felony forgery in 1998.

On July 14, 2006, the State charged Mooney with class C felony robbery and class B felony unlawful possession of a firearm by a serious violent felon. On September 20, 2006, the State charged Mooney with a habitual offender count. Mooney pled guilty to all three counts on November 16, 2006. Sentencing was left open to the trial court, with the stipulation that sentences for both felonies would be served concurrently.

At the November 29, 2006, sentencing hearing, Mooney's counsel requested that the trial court attach the habitual offender enhancement to the class C felony robbery conviction and that the sentence not exceed ten years. The trial court imposed a ten-year advisory

sentence for class B felony firearm possession and a four-year advisory sentence for class C felony robbery and attached a six-year habitual offender enhancement to the robbery conviction. The trial court made no findings regarding aggravating or mitigating circumstances. The trial court ordered that Mooney's sentences be served concurrently, for an aggregate sentence of ten years. This appeal ensued.

Discussion and Decision

Mooney contends that the trial court erred by not stating its reasons for the sentence it imposed. The trial court made the following statement,

> I think this case is worth ten years, is what I think it's worth, and that's what I'm going to give him. So on Count One, the serious violent felon, I'm going to give him ten years on that. Count Two, the robbery, I'll give him four on that, the habitual offender, I'll give him six on that, I'll attach it to the robbery, those will run six and four for ten, ten and ten concurrent; so your total sentence will be ten years. Does that make sense, Lori? Okay. You all right with that Mr. Mooney, that's about as low as I can go on this matter.

Tr. at 33.

Prior to our supreme court's decision in *Anglemyer v. State*, 868 N.E.2d 482 (Ind. 2007), trial courts were not required to issue a sentencing statement when imposing presumptive (now advisory) sentences. *See Jones v. State*, 698 N.E.2d 289, 290 (Ind. 1998) ("[A] sentencing judge must articulate her reasoning only when she deviates from the statutory presumptive sentence."). In *Anglemyer*, the court held that trial courts are required to enter sentencing statements whenever imposing sentence for a felony offense. *Id*. at 490.[1] Further, the court held that "the statement must include a reasonably detailed recitation of the

trial court's reasons for imposing a particular sentence." *Id*. Mooney's sentencing hearing occurred before the *Anglemyer* decision was handed down. As our supreme court observed in a similar situation,

> Obviously not having the benefit of our ruling in *Anglemyer*, the trial court in this case did not enter a [detailed] sentencing statement. Rather, adhering to long-standing precedent, which required no such statement when imposing the presumptive sentence, the trial court simply sentenced [the defendant] to the advisory term without explaining its reasons.…
>
> …. [E]ven if the trial court were on notice of its obligation to enter a sentencing statement—which it was not—and simply failed to do so, we nonetheless would not be inclined to remand this cause for further consideration. And this is so because we have long held that where the trial court erred in sentencing a defendant, there are several options for the appellate court. Without a trial court sentencing order that meets the requirements of the law, we have the option to remand to the trial court for a clarification or new sentencing determination. Additionally we may exercise our authority to review and revise the sentence.

Windhorst v. State, 868 N.E.2d 504, 506-07 (Ind. 2007) (footnote, citations, and quotation marks omitted).

Indiana Appellate Rule 7(B) allows us to review and revise a sentence 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." Mooney's criminal history indicates not only a propensity for taking property belonging to others, but also a propensity for violence. His ten-year aggregate sentence is appropriate.[2]

Affirmed.

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[1] In 2007, the Indiana General Assembly enacted the following statute regarding sentencing statements: "After a court has pronounced a sentence for a felony conviction, the court shall issue a statement of the court's reasons for selecting the sentence that it imposes." Ind. Code § 35-38-1-1.3.

[2] We note that the trial court sentenced Mooney in accordance with specific requests of his counsel: (1) that the sentences run concurrently; (2) that the habitual offender count be attached to the class C felony; and (3) that the aggregate sentence not exceed ten years.

BAILEY, J., and NAJAM, J., concur.