

Robert W. Taylor (“Taylor”) was convicted in LaPorte Circuit Court of Class B felony robbery. He was sentenced to a term of ten years. Taylor appeals and argues that the evidence was insufficient to support his conviction for Class B felony robbery and that his sentence was inappropriate in light of the character of the offender and the nature of the offense.

We affirm.

Facts and Procedural History

On December 6, 2006, David Young (“Young”) cashed his paycheck and went to a friend’s house. While there, Young gave money to Taylor to buy beer because Young was underage at the time of the incident and Taylor was not. Young left that house and met friends at another house. Taylor arrived with the beer and everyone began to drink. After all of the beer had been consumed, Taylor asked Young for more money to buy more beer. Young refused.

Young decided to leave. Taylor and three of Young’s friends followed him outside. A snowball fight broke out. Young threw a few snowballs then ran away. Taylor ran after Young and threw him to the ground. Taylor began to kick Young and the other three joined in kicking Young in the face, ribs, and other parts of his body. Taylor told Young that the beating would continue unless Young gave him money. Young gave Taylor all of his money, eighty dollars.

Young continued on to his home where his brother called the police. The responding officer noted injuries to Young’s face. There were injuries to the right side of his face, his eyes, nose, and forehead. Also, Young had shoe tread marks on his face.

Taylor was charged with Class B felony robbery and Class A misdemeanor battery. A jury found him guilty. The trial court merged the two offenses and sentenced Taylor on the Class B felony robbery to the advisory term of ten years, with four years executed and six years on electronic monitoring. Taylor appeals.

I. Sufficient Evidence

When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jones v. State, 783 N.E.2d 1132,1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Taylor argues that there is insufficient evidence of bodily injury to Young to support his Class B felony robbery conviction. Indiana Code section 35-42-5-1 (2004) states:

A person who knowingly or intentionally takes property from another person or from the presence of another person:

- (1) by using or threatening the use of force on any person; or
- (2) by putting any person in fear;

commits robbery, a Class C felony. However, the offense is a Class B felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant, and a Class A felony if it results in serious bodily injury to any person other than a defendant.

Bodily injury is defined as “any impairment of physical condition, including physical pain.” Ind. Code § 35-41-1-4 (2004). We have held that red marks, bruises and minor scratches constituted bodily injury as defined above. See Tucker v. State, 725

N.E.2d 894, 897-98 (Ind. Ct. App. 2000), trans. denied, Hanic v. State, 406 N.E.2d 335, 337-38 (Ind. Ct. App. 1980)

Taylor bases his argument on his belief that the robbery did not cause bodily injury to Young, only emotional injury. At trial, evidence was presented that showed contusions to Young's forehead, eye area, nose and cheek. Tr. p. 30, State's Ex. Vol., Ex. 1. In fact, shoe tread marks are visible on his face. Tr. p. 31, State's Ex. Vol., Ex. 7. Taylor admits that the photographs presented at trial show abrasions on Young's face. Appellant's Br. at 5. Young's injuries are sufficient to constitute bodily injury. Therefore, the facts and circumstances of this case support Taylor's conviction for Class B felony robbery.

II. Appropriate Sentence

Taylor argues that his sentence was inappropriate. A defendant may challenge his sentence under Indiana Appellate Rule 7(B) which provides: "The 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 Anglemyer Court explained:

It is on this basis alone that a criminal defendant may now challenge his or her sentence where the trial court has entered a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence that is supported by the record, and the reasons are not improper as a matter of law, but has imposed a sentence with which the defendant takes issue.

Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007). "[A] defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review."

Id.

The sentence under review is not inappropriate in light of the nature of the offense and the character of the offender. The nature of the offense before us is telling. When Young ran away, Taylor caught him and began to kick him. After Young's three other friends began beating him, Taylor threatened to continue beating Young unless Young gave Taylor money. Taylor was the ring leader of the attack that injured Young.

The character of the offender is also informative in this case. Taylor is currently twenty-two years old. Shortly after his eighteenth birthday, Taylor was convicted of Class B felony armed robbery and sentenced to eight years, with four years suspended and four years probation. Within two years of this first conviction, Taylor has violated probation twice, including the instant offense. Also, Taylor attacked a friend, Young, for beer money. Accordingly, we conclude that Taylor's ten-year sentence is not inappropriate in light of the nature of offenses and the character of the offender.

Conclusion

Under the facts and circumstances of this case, sufficient evidence supported Taylor's conviction for Class B felony robbery. Taylor's ten-year sentence was not inappropriate based on the nature of the offense and the character of the offender.

Affirmed.

BAILEY, J., and BARNES, J., concur.