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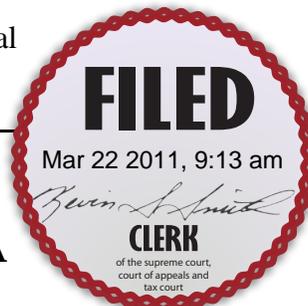
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**IN THE
COURT OF APPEALS OF INDIANA**

WILLIAM A. LAWHORN,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 38A02-1009-CR-01037

APPEAL FROM THE JAY CIRCUIT COURT
The Honorable Brian D. Hutchison, Judge
Cause No. 38C01-1001-FB-3

March 22, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

William A. Lawhorn appeals his fifteen-year sentence for Class B felony dealing in methamphetamine. He contends that his sentence is inappropriate in light of the nature of the offense and his character. Because Lawhorn has failed to persuade us that his sentence is inappropriate, we affirm.

Facts and Procedural History

On January 17, 2010, a Jay County Deputy Sheriff stopped a car in which Lawhorn was the front seat passenger. A bag of methamphetamine was found underneath Lawhorn's seat. The deputy also found methamphetamine on the driver and on the backseat floor. Finally, the deputy found items consistent with and integral to the manufacture of methamphetamine in the backseat. According to the driver of the vehicle, the week before he had supplied Lawhorn with pseudoephedrine, the methamphetamine on his person was partial payment for the pseudoephedrine, and they were on their way to make methamphetamine when they got caught. An investigation revealed that Walmart personnel observed Lawhorn purchase methamphetamine precursors the day before this incident.

The State charged Lawhorn with Class B felony dealing in methamphetamine, Class D felony possession of methamphetamine, Class D felony possession of a controlled substance (for a pill found in Lawhorn's pocket), and Class D felony possession of chemical reagents or precursors with intent to manufacture a controlled substance. While Lawhorn was out on bond in this case, he was arrested in Blackford County and charged with Class B felony dealing in methamphetamine.

In July 2010, Lawhorn and the State entered into a plea agreement in this case in which Lawhorn agreed to plead guilty to Class B felony dealing in methamphetamine, and the State agreed to dismiss the three remaining charges. In addition, the State agreed to recommend to the trial court a cap of fifteen years executed. The trial court accepted the plea agreement. The court made the following comments at the sentencing hearing:

Mr. Lawhorn I appreciate what you're saying as far as the problems you have with substance abuse but there comes a point where that's not a mitigating factor anymore. You've, if I understood you correctly, you sought out and never followed through with treatment at Anderson's Center, Caylor Nickel Clinic and Meridian Services because there was some stumbling block put before you in each of those cases but that was three efforts in a lifetime, the PSI says you started smoking dope at 11 years of age. Three efforts in a lifetime of drug abuse and you have a huge criminal record. . . . Your criminal record, your juvenile record, the fact that you violated conditions of probation, the fact that you violated the bond that was ordered in this case tells all of us and hopefully it tells you that you're out of control. Your life is out of control and . . . you don't have a handle on it.

Sent. Tr. p. 13 (capitalization omitted). The court sentenced Lawhorn to fifteen years (the maximum under the plea agreement but five years short of the maximum for a Class B felony) and ordered this sentence to be served consecutive to Lawhorn's twenty-year sentence with ten years suspended in Blackford County. Lawhorn now appeals his sentence.

Discussion and Decision

Lawhorn contends that his fifteen-year sentence is inappropriate in light of the nature of the offense and his character under Indiana Appellate Rule 7(B). Although Lawhorn tosses in some abuse-of-discretion language in his appellate brief, *see, e.g.*, Appellant's Br. p. 5, the substance of Lawhorn's analysis is inappropriateness. We

therefore only address whether Lawhorn's sentence is inappropriate and do not separately analyze whether the trial court abused its discretion in sentencing him.

Our rules authorize revision of 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.” Ind. Appellate Rule 7(B). “[A] defendant must persuade the appellate court that his or her sentence has met this inappropriateness standard of review.” *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

The principal role of Rule 7(B) review “should be to attempt to leaven the outliers, and identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes, but not to achieve a perceived ‘correct’ result in each case.” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). We “should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count.” *Id.* Whether a sentence is inappropriate ultimately turns on the culpability of the defendant, the severity of the crime, the damage done to others, and a myriad of other factors that come to light in a given case. *Id.* at 1224.

As for the nature of the offense, Lawhorn points out that no one was physically hurt and no weapons were confiscated.

As for his character, Lawhorn concedes that he has an “extensive criminal history”; however, he claims that it is “all substance related.” Appellant's Br. p. 7; Sent. Tr. p. 11. The PSI shows that Lawhorn has a juvenile adjudication for theft, 1994 convictions for felony possession of cocaine and misdemeanor public intoxication, two

1996 convictions for misdemeanor operating while intoxicated, a 1998 misdemeanor conviction for disorderly conduct, 2000 misdemeanor convictions for disorderly conduct, public intoxication, and driving while suspended, a 2002 misdemeanor conviction for domestic battery, a 2004 felony conviction for theft, 2002 misdemeanor convictions for dealing in a substance presented as a controlled substance and dealing in marijuana, a 2004 felony conviction for possession of a controlled substance, a 2004 felony conviction for battery by means of a deadly weapon, a 2008 misdemeanor conviction for visiting a common nuisance, and 2008 misdemeanor convictions for operating while intoxicated and resisting law enforcement. Though many of Lawhorn's convictions are substance-related, Lawhorn's criminal history is extensive. In addition, while out on bond in this case, Lawhorn was arrested for (and ultimately pled guilty to) the very same crime as in this case.

Lawhorn next points out that he is addicted to “[e]very drug there is” and he is “an addict. It sucks.” Sent. Tr. p. 9, 11. Lawhorn, thirty-seven years old at the time of sentencing, claims that he has tried to get into treatment centers on three different occasions, but for various reasons (none of which were his fault), he never went. However, Lawhorn started doing drugs when he was just eleven years old and has had plenty of contact with the criminal justice system. As the trial court found, Lawhorn is past the point where his addiction is mitigating. Finally, although Lawhorn pled guilty in this case, the State dismissed three felony charges against him. Lawhorn has failed to persuade us that his fifteen-year sentence for Class B felony dealing in methamphetamine is inappropriate. We therefore affirm the trial court.

Affirmed.

BAKER, J., and BARNES, J., concur.