



Jamaal Moore appeals his sentence for dealing in cocaine as a class A felony.<sup>1</sup> Moore raises one issue, which we revise and restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

The relevant facts follow. Between September 27, 2007, and October 9, 2007, Moore was the subject of an undercover investigation by the Lafayette Drug Task Force after a confidential informant provided information regarding Moore. On September 27, 2007, an undercover officer purchased .7 grams of crack cocaine from Moore for eighty dollars. A few hours later, the undercover officer purchased .6 grams of crack cocaine from Moore for eighty dollars. During the exchange, which took place inside Moore's apartment, two "little boys" playing a videogame and a woman holding an infant were present. Transcript at 128. The undercover officer chatted with the boys and the woman for a minute until Moore returned with two plastic bags of crack cocaine. Moore told the undercover officer to be careful because police were in the area.

On October 3, 2007, an undercover officer and a confidential informant called Moore and arranged to purchase eighty dollars worth of crack cocaine. Based upon that conversation, the undercover officer was put in contact with Shaniqua Davis. The undercover officer went to meet Davis and purchased half a gram of crack cocaine. On

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<sup>1</sup> Ind. Code § 35-48-4-1 (Supp. 2006).

October 9, 2007, the undercover officer again met Moore and purchased “several rocks” of crack cocaine that weighed 2.7 grams. Id. at 170.

The State charged Moore with: (1) Count I, conspiracy to commit dealing in cocaine as a class A felony; (2) Count II, dealing in cocaine as a class A felony; (3) Count III, dealing in cocaine as a class A felony; (4) Count IV, possession of cocaine as a class B felony; (5) Count V, dealing in cocaine as a class A felony; and (6) Count VI, possession of cocaine as a class B felony. After a jury trial, Moore was found guilty as charged. The trial court found Moore’s extensive criminal history and the fact that Moore was selling crack cocaine in front of his children on numerous occasions as aggravators. The trial court found the following mitigators: (1) Moore was a good student in high school and has a high school diploma; and (2) imprisonment will cause an undue hardship on Moore’s children. The trial court found that the aggravating factors outweighed the mitigating factors. The trial court merged Counts I, III, IV, V, and VI with Count II, dealing in cocaine as a class A felony. The trial court sentenced Moore to forty years in the Department of Correction with two years suspended to probation.

The issue is whether Moore’s sentence is inappropriate in light of the nature of the offense and the character of the offender.<sup>2</sup> Ind. Appellate Rule 7(B) provides that we

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<sup>2</sup> Moore cites to the prosecutor’s closing argument to the jury and argues that “the State was intent on tapping into the judge’s sense of community pride, in hopes the court would somehow find that the defendants [sic] hometown made the offense worse.” Appellant’s Brief at 10. Moore also argues that “[w]hen the underlying premise is examined, it is outright offensive” and “[t]his premise should not be used to justify a lengthy prison sentence.” Id. We note that Moore cites to the prosecutor’s closing

“may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Moore requests that we revise his sentence.

Our review of the nature of the offense reveals that Moore sold crack cocaine to an undercover officer on multiple occasions. During one of these exchanges, there were two “little boys” playing a videogame and a woman holding an infant nearby. Transcript at 128.

Our review of the character of the offender reveals that Moore graduated from high school and completed some college courses. On appeal, without citation to the record, Moore relies upon his “good work record.” Appellant’s Brief at 11. At trial, Shaniqua Davis testified that Moore did not have a job and supported himself by dealing crack cocaine. However, the presentence investigation report reveals that Moore stated that since 1995 he had been employed as a foreman with All Purpose Home Remodeling in Chicago prior to his incarceration. The trial court noted that Moore was a foreman “at one time” with All Purpose Home Remodeling. Transcript at 364. The presentence

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arguments and not to the prosecutor’s statements at the sentencing hearing.

investigation report reveals a “prior work history” of four other jobs since 2000. Appellant’s Appendix Green Volume at 6.

Twenty-seven-year-old Moore has convictions for disorderly conduct as a class C misdemeanor, reckless driving as a class A misdemeanor, “Other Amount Narcotic, a Felony” in Illinois in 2001, which involved crack cocaine, another possession of cocaine as a class A felony in Illinois in 2002, and criminal damage to property as a class A misdemeanor. Id. at 3. Moore was sentenced to twenty-four months of probation for his conviction for “Other Amount Narcotic, a Felony,” but Moore violated his probation. Id. At the time of the presentence investigation report, the following offenses were pending: two counts of possession of marijuana as a class A misdemeanor, dealing in marijuana as a class A misdemeanor, being an habitual offender, and driving while suspended. Moore is single and has five children by three different women.

After due consideration of the trial court’s decision, we cannot say that the sentence of forty years with two years suspended is inappropriate in light of the nature of the offense and the character of the offender. See, e.g., Vazquez v. State, 839 N.E.2d 1229, 1235 (Ind. Ct. App. 2005) (concluding that the defendant’s sentence of fifty years with five years suspended for conspiracy to commit dealing in cocaine as a class A felony was not inappropriate in light of the nature of the crime and his character), trans. denied.

For the foregoing reasons, we affirm Moore’s sentence for dealing in cocaine as a class A felony.

Affirmed.

ROBB, J. and CRONE, J. concur