

Case Summary

Appellant-Defendant Rockie L. Jernigan (“Jernigan”) appeals his sentences for Possession of Cocaine, as a Class B felony,¹ and Dealing in Cocaine, as a Class B felony.² We affirm.

Issue

Jernigan raises the single issue of whether his sentences are inappropriate.

Facts and Procedural History

On July 9, 2005, Muncie Police Officer Shane Finnegan (“Officer Finnegan”) observed Jernigan sleeping in his vehicle. While standing outside the vehicle, Officer Finnegan could see a clear plastic bag containing a white powder residue on the passenger side’s floor board as well as a small plastic container with a blue top with similar residue located on the console next to the driver’s seat. Officer Finnegan woke Jernigan by tapping on the window. After questioning Jernigan, Officer Finnegan asked him to step out of the car. Officer Finnegan removed the plastic bag and the plastic container and conducted a field test of the substance contained in each. The substance tested positive for cocaine. Jernigan was arrested and transported to the Delaware County Jail. During the search of Jernigan in the booking process, three additional bags containing a white powder substance were recovered from Jernigan’s person. Laboratory testing confirmed that the substance in each bag or container was cocaine with an aggregate weight of 7.68 grams. The State charged

¹ Ind. Code § 35-48-4-6(b)(2).

² I.C. § 35-48-4-1(a).

Jernigan under Cause No. 18C01-0507-FA-0007 with Dealing in Cocaine, as a Class A felony,³ and alleged Jernigan to be a Habitual Offender.⁴

On August 25, 2005, Jernigan sold cocaine to a confidential informant at the Sportsman's Lounge in Muncie. When police attempted to apprehend Jernigan after the transaction, Jernigan ran on foot and struggled with officers when they caught up with him. The State charged him with Dealing Cocaine, as a Class B felony, Resisting Law Enforcement, as a Class D felony,⁵ and alleged that he was a Habitual Offender. These charges were transferred to Cause No. 18C01-0509-FB-24.

On March 21, 2007, the State and Jernigan entered into a plea agreement where Jernigan would plead guilty to Count I of FA-0007, amended to Possession of Cocaine, as a Class B felony, and Count I of FB-24, Dealing in Cocaine, as a Class B felony. In exchange, the State agreed to dismiss the remaining charges. The plea agreement also stated that there would be a cap of twenty-four years, but otherwise sentencing would be left to the discretion of the trial court.

The trial court accepted the plea agreement. After a hearing, the trial court sentenced Jernigan to ten years for possession of cocaine and ten years for dealing in cocaine, which were to be served consecutively.

³ I.C. § 35-48-4-1(b).

⁴ I.C. § 35-50-2-8.

⁵ I.C. § 35-44-3-3(b)(1).

Jernigan now appeals.

Discussion and Decision

Jernigan contends that the sentences imposed by the trial court are 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).

Each of Jernigan's challenged sentences is a Class B felony, which were ordered to be served consecutively. The range of possible sentences for a Class B felony is between a minimum of six years and a maximum of twenty years with an advisory sentence of ten years. The trial court sentenced Jernigan to the advisory sentence of ten years for each Class B felony conviction.

As for the nature of the offenses, Jernigan possessed over seven grams of cocaine within 1000 feet of Muncie Central High School in July of 2005. The very next month, he sold cocaine to a confidential informant.

As for the character of the offender, Jernigan has a lengthy criminal history spanning three decades, which includes at least three felonies and five misdemeanors. Furthermore, the presentence report indicates that Jernigan has a history of failing to pay fines and appear

for court hearings, including sentencing hearings. Jernigan pled guilty and received the benefit of two habitual offender allegations and a felony count of resisting law enforcement being dismissed.

Jernigan has not persuaded us that his sentences are inappropriate.

Affirmed.

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