

After pleading guilty to two Class C felony burglaries,¹ Mark Adrian Hughes appeals his ten-year executed sentence and argues that the sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

In December 2006 and January 2007, kitchen appliances were reported stolen from several new home construction sites in Hamilton County. During the investigation of these crimes, police found fingerprints or blood at each location. In April 2008, the State charged Hughes with three counts of Class C felony burglary and three counts of Class D felony theft. Thereafter, in September 2008, Hughes pleaded guilty to two Class C felony burglaries; the State dismissed all remaining charges. Pursuant to the plea agreement, the sentence was to be left to the discretion of the trial court with the stipulation that the executed portion of the sentence for the two counts would not exceed ten years. *Appellant's App.* at 41.

At the October 2008 sentencing hearing, Hughes's counsel asked the court to consider as a mitigator the undue hardship that would result on Hughes's dependents, namely his wife and three minor children, if the court sentenced him to incarceration. He further requested that Hughes be placed in a work release program, which would allow Hughes to earn an income and enable him to make restitution to the victims. The State, on the other hand, argued the existence of two aggravating circumstances: (1) a lengthy criminal history that

¹ See Ind. Code § 35-43-2-1.

reflected escalating criminal conduct and consisted of three misdemeanors and four felonies; and (2) a history of probation violations.

Following argument, the court identified as a mitigating circumstance the hardship that would result from incarceration, and it identified Hughes's criminal history and probation violations as aggravating circumstances. The trial court sentenced Hughes to eight years, with three years suspended, for each count. The court ordered that the two sentences be served consecutively, for a total of ten years executed. The trial court denied Hughes's request that his sentence be served in a work release program. Hughes now appeals.

DISCUSSION AND DECISION

Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Anglemeyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). However, appellate courts have the constitutional authority to revise a sentence if, after consideration of the trial court's decision, the court concludes the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B). The burden is on the defendant to persuade the appellate court that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1072, 1080 (Ind. 2006).

Hughes argues that his ten-year executed sentence is inappropriate because the offenses were non-violent and non-drug related, and it "unfairly undercuts Hughes'[s] obligation to support his wife and three children." *Appellant's Br.* at 4. He explains that without his ability to work and earn an income, his family "will likely need to be supported

by the State of Indiana.” *Id.* Furthermore, he asserts, the emotional health of his children will be detrimentally affected by his incarceration.

We acknowledge that the nature of the offenses was not physically violent; no one was injured during the crimes, and only property damage was incurred through Hughes’s efforts to gain access to the structures. However, an examination of Hughes’s character discloses that Hughes has been arrested thirteen times in the last fourteen years and has been convicted of three misdemeanors and four felonies. Hughes’s offenses have escalated in severity over the years, beginning with misdemeanor offenses for operating a vehicle without a license and public intoxication and intensifying to felony offenses of theft and burglary. He has been found in violation of his probation on at least two occasions.

In the light of this criminal history, Hughes has failed to persuade us that his sentence was inappropriate, and we find no abuse of discretion. *See e.g. Felder v. State*, 870 N.E.2d 554, 559 (Ind. Ct. App. 2007) (although nothing about nature of offense warranted enhanced sentence, sentence was appropriate based on defendant’s character).

Affirmed.

BRADFORD, J., and BROWN, J., concur.