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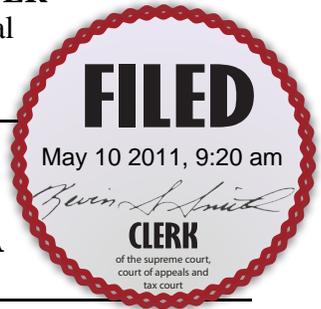
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**IN THE
COURT OF APPEALS OF INDIANA**



LAVONTA HENRY,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 71A05-1009-CR-599

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable Jerome Frese, Judge
Cause No. 71 D03-0808-FB-102

May 10, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Lavonta Henry was convicted after a jury trial of four counts of burglary,¹ each as a Class B felony, and was sentenced to an aggregate forty-year sentence, with twenty-four years executed. He appeals, raising the following restated issue: whether his sentence was inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

Between July 17, 2008 and July 30, 2008, Henry, Jose Mireles, and Nathan Blad committed several burglaries in St. Joseph County. On July 17, 2008, they burglarized the residence of Jeffrey Carnell on South Miami Road. When Carnell came home, he discovered his garage door had been kicked in, and his house ransacked. Henry and his accomplices took handguns, rifles, jewelry, money, computers, and three televisions. Henry's fingerprint was found on a mirrored closet door in a bedroom of Carnell's residence.

On July 18, 2008, Henry and his accomplices burglarized the residence of Edmond Niespodziany on the Crumstown Highway in St. Joseph County. Niespodziany returned home that day and found a basement window had been broken out, and the residence in disarray. Henry and the others took a laptop computer, two televisions, jewelry, and a pink iPod.

¹ See Ind. Code § 35-43-2-1.

On July 23, 2008, Henry and others burglarized the residence of Kevin Fuchs and his family on Lake Trail in St. Joseph County. When Fuchs came home on that day, he noticed that his home had been ransacked. Henry and his accomplices took a couple of cameras, a camcorder, a projector, two computers, one gun, and a large amount of jewelry from the residence.

On July 30, Henry, Mireles, and Blad burglarized the residence of Brenda Gorney and her two sons on Darden Road in St. Joseph County. They took Gorney's brand new big screen television, an Xbox, Gorney's jewelry, her son's laptop computer, \$700 in cash of her son's college money, and approximately twenty-two dollars in collectible silver certificates. As Henry and his accomplices were leaving the residence, Gorney's neighbor, James Cooreman, noticed their vehicle and, thinking it looked suspicious, followed it. He obtained the license plate number, called the police, and gave them the number and a description of the vehicle.

St. Joseph County police officers stopped the vehicle a short time later and apprehended Henry, Mireles, and Blad. They were placed in separate police cars, and when Henry was moved from the police car to another vehicle, the back seat area where he had been sitting was searched. Several silver certificates and two-dollar bills were discovered stuffed behind the seat. The officers were directed to a location on Inwood Road where they found several items that had been stolen from the Gorney residence underneath a tree. Henry's vehicle was located and searched; a camera and camera case belonging to Fuchs was found. A search warrant was obtained and executed at Henry's

residence, and a projector, a flat screen television, a pink iPod, and several other stolen items were recovered.

The State charged Henry with five counts of burglary, each as a Class B felony. One of the counts was dismissed prior to trial. A jury trial was held on the remaining counts, and at the conclusion, Henry was found guilty of four counts of Class B felony burglary. The trial court sentenced him to ten years on each count to be served consecutively and suspended four years on each count, resulting in a twenty-four year executed sentence. Henry now appeals.

DISCUSSION AND DECISION

“This court has authority to revise 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.’” *Spitler v. State*, 908 N.E.2d 694, 696 (Ind. Ct. App. 2009) (quoting Ind. Appellate Rule 7(B)), *trans. denied*. “Although Indiana Appellate Rule 7(B) does not require us to be ‘extremely’ deferential to a trial court’s sentencing decision, we still must give due consideration to that decision.” *Patterson v. State*, 909 N.E.2d 1058, 1062-63 (Ind. Ct. App. 2009) (quoting *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007)). We understand and recognize the unique perspective a trial court brings to its sentencing decisions. *Id.* at 1063. The defendant bears the burden of persuading this court that his sentence is inappropriate. *Id.*

Henry argues that his sentence was inappropriate in light of the nature of the offense and the character of the offender. He specifically contends that the nature of the offense was not particularly heinous and that he had a minimal criminal history and was

remorseful at his sentencing hearing. Because of these things, he asserts his sentence should be revised.

Although the nature of Henry's offenses was not particularly egregious, the evidence did show that he and two other accomplices broke into four separate residences in the span of approximately two weeks. To gain access to these homes, they either kicked in doors or broke windows. Once inside, Henry and his accomplices ransacked the homes and took many items of value, including cash, electronic equipment, computers, and jewelry. Henry's crimes caused great financial loss to the victims and caused them to lose the sense of safety and security they had enjoyed in their homes.

As to Henry's character, the evidence showed that he was approximately nineteen years old at the time he committed these burglaries. Although these were his first convictions as an adult, he had several prior juvenile adjudications, which included one for criminal mischief and two for burglary. Henry committed the instant offenses only nine months after completing the probation imposed for his juvenile adjudications. Further, Henry went to live in Ohio before trial in this case, and while there, he committed and was convicted of misdemeanor disorderly conduct.

Additionally, the multiple burglaries involved multiple victims. The imposition of consecutive sentences is appropriate in cases involving multiple victims. *Bostick v. State*, 804 N.E.2d 218, 226 (Ind. Ct. App. 2004). "[W]hen the perpetrator commits the same offense against two victims, . . . consecutive sentences seem necessary to vindicate the fact that there were separate harms and separate acts against more than one person. *Serino v. State*, 798 N.E.2d 852, 857 (Ind. 2003). Henry received the advisory sentence

of ten years for each count of Class B felony burglary, with four years suspended on each count, and with the sentences for each of the four counts to be served consecutively. This resulted in a forty-year sentence with twenty-four years executed. We conclude that Henry's sentence was not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

MATHIAS, J., and VAIDIK, J., concur.