



Jeffery L. Wilson (“Wilson”) appeals his sentence after pleading guilty to one count of burglary<sup>1</sup> as a Class B felony. Wilson presents the following restated issue for our review: whether Wilson’s sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

The facts revealed during Wilson’s guilty plea hearing show that on October 12, 2004, Wilson and his friend Deshawn Wells were riding their bicycles around the neighborhood in Elkhart, Indiana when Wilson suggested they rob a house near his cousin’s house. The two hid their bikes in the back yard of the house and went to the front door. After loudly knocking on the front door, Wilson used a credit card to open the front door of the house. The two then left on their bikes riding around the block to determine if the act of opening the door had triggered an alarm. After concluding that no alarm had been triggered, they returned to the house and walked inside the front door with the intent to commit the crime of theft. Wells left the house after hearing a noise that caused him to panic. Wilson followed him out of the house. The two were arrested a few blocks away fleeing on their bicycles.

The State charged Wilson with burglary as a Class B felony for the events occurring on October 12, 2004. Wilson was waived to adult court, and on June 26, 2006, entered into a plea agreement whereby Wilson would plead guilty to burglary and the State would dismiss the charges in two other cause numbers and forbear charging Wilson with any additional

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<sup>1</sup> See Ind. Code § 35-43-2-1.

counts arising from the October 12, 2004 incident.

The trial court accepted Wilson's guilty plea and sentenced him to a term of fourteen years with four years suspended to probation. After seeking permission to pursue a belated appeal, Wilson now appeals.

### **DISCUSSION AND DECISION**

Trial courts are required to enter sentencing statements whenever imposing sentence for a felony offense. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (2007). The statement must include a reasonably detailed recitation of the trial court's reasons for imposing a particular sentence. *Id.* If the recitation includes a finding of aggravating or mitigating circumstances, then the statement must identify all significant mitigating and aggravating circumstances and explain why each circumstance has been determined to be mitigating or aggravating. *Id.* Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Id.* An abuse of discretion occurs if the decision is "clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom." *Id.* Once the trial court has entered a sentencing statement, which may or may not include the existence of aggravating and mitigating factors, it may then "impose any sentence that is . . . authorized by statute; and . . . permissible under the Constitution of the State of Indiana." Ind. Code § 35-38-1-7.1(d).

Wilson pleaded guilty to one count of Class B felony burglary. The sentencing range for a Class B felony conviction is a fixed term of between six years and twenty years with the

advisory sentence being ten years. Ind. Code § 35-50-2-5. Wilson received a fourteen-year sentence, with four years suspended to probation. The trial court found that Wilson had been charged with, but not convicted of false informing, curfew violation, three burglaries, armed robbery, no operator's license and criminal recklessness, and that Wilson belonged to a gang, the Gangster's Disciples, as aggravating circumstances. The trial court then found that Wilson had no convictions as an adult and that Wilson had accepted responsibility by pleading guilty as mitigating circumstances. The trial court determined that the aggravating circumstances outweighed the mitigating circumstances and imposed the fourteen-year sentence.

Wilson claims that his sentence is inappropriate arguing that we should revise his sentence to the advisory sentence of ten years with four years suspended to probation. Indiana Appellate Rule 7(B) provides that this court may revise a sentence 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).

Here, assuming without deciding that the nature of Wilson's crimes were not remarkable, Wilson's character renders his slightly enhanced sentence appropriate. We recognize that Wilson's youth--he was seventeen years old when he committed the crimes and eighteen years old when sentenced--and his guilty plea merit consideration. Nonetheless, Wilson's character reveals that he has never had a job, was a member of a gang, and at the

time of sentencing had amassed another Class B felony burglary charge, a Class B felony armed robbery charge, three misdemeanor driving offenses, a false informing charge, and three counts of felony criminal recklessness since the time of his arrest for the instant offense, many of which were pending at the time of sentencing. A sentencing court may properly consider as an aggravating factor pending charges not reduced to convictions because they reflect the defendant's character and indicate a risk of future crime. *Bacher v. State*, 722 N.E.2d 799 (Ind. 2000). These factors are sufficient to conclude that Wilson's slightly enhanced sentence was not inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.