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**IN THE
COURT OF APPEALS OF INDIANA**

CYNTHIA K. LONG,)
)
Appellant-Defendant,)
)
vs.) No. 31A01-0810-CR-484
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE HARRISON SUPERIOR COURT
The Honorable Roger D. Davis, Judge
Cause No. 31D01-0711-FB-769

May 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Cynthia Long appeals the sixty-year sentence imposed after she pled guilty to six counts of burglary, all Class B felonies, and six counts of theft, all Class D felonies. For our review, Long raises a single issue, whether her sentence is inappropriate in light of the nature of her offenses and her character. Concluding the sentence is not inappropriate, we affirm.

Facts and Procedural History

“From 2007 through 2008, [Long] helped [her brother] commit between fifty (50) and eighty (80) burglaries in Kentucky and Indiana.” Brief of Appellant at 5. Long acted as the driver and look-out for the crimes, but never physically entered any of the burglarized dwellings. Subsequent to the burglaries, Long made purchases with stolen credit cards and helped to sell stolen property.

On November 5, 2007, the State charged Long with six counts of burglary, all Class B felonies, and six counts of theft, all Class D felonies, related to her criminal activity in Harrison County between July 12 and August 15, 2007.¹ Long pled guilty to all twelve counts without a plea agreement. The trial court held a sentencing hearing on September 4, 2008, and found two aggravating circumstances: 1) Long’s criminal history; and 2) Long committed the offenses while on release awaiting sentencing after pleading guilty to several felony charges in Kentucky. The trial court found Long’s criminal history to be “extremely serious and very, very, very weighty.” Transcript at 109.

¹ Long and her brother committed two burglaries on July 12, one on July 23, two on July 25, and one on August 15, 2007, in Harrison County.

The trial court also found four mitigating circumstances: 1) incarceration would result in a hardship to Long's three children; 2) Long's personal history includes being sexually and physically abused and raped as a child; 3) Long had led a law abiding life for thirty-six years leading up to her criminal behavior; and 4) Long demonstrated remorse and pled guilty to the charges. The trial court gave minimal weight, however, to the hardship on Long's children and expressed doubt about whether her history of abuse played a role in her criminal activity.

The trial court concluded the aggravating circumstances overwhelmingly outweighed the mitigating circumstances and sentenced Long to ten years on each of the Class B felony burglary convictions and one and one-half years on each of the Class D felony theft convictions. The trial court ordered the burglary sentences to be served consecutively and the theft sentences to be served concurrently to each other and to the burglary charges, resulting in an aggregate sentence of sixty years all executed with the Department of Correction. Long now appeals.

Discussion and Decision

I. Standard of Review

Long received the advisory sentence for each of her convictions. Pursuant to Indiana Appellate Rule 7(B), we 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." Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on reh'g, 875 N.E.2d 218. When making this decision, we may look to any factors appearing in the record. Roney v. State, 872 N.E.2d 192, 196 (Ind.

Ct. App. 2007), trans. denied; cf. McMahon v. State, 856 N.E.2d 743, 750 (Ind. Ct. App. 2006) (“[I]nappropriateness review should not be limited ... to a simple rundown of the aggravating and mitigating circumstances found by the trial court.”). However, the defendant bears the burden to “persuade the appellate court that [her] ... sentence has met this inappropriate standard of review.” Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

II. Nature of the Offenses

Long pled guilty to the burglary of six homes in just over a month including two separate occasions where she helped burglarize two homes in one day. Although the evidence supports a finding that Long’s brother carried a firearm during the burglaries, there is no evidence that he used it to threaten any of these victims or that he harmed anyone. The trial court estimated the financial harm to only two of the victims to be \$6,337.00. The evidence does not suggest these crimes, taken individually, were more or less severe than an average burglary or theft. The trial court imposed the advisory sentence for each conviction and ordered the six ten-year sentences served consecutively for an aggregate sentence of sixty-years. Long argues ordering the sentences to be served consecutively is inappropriate. However, our supreme court has commented, “when the perpetrator commits the same offense against [multiple] victims, enhanced and 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). Such is the case here, the consecutive sentences are appropriate to recognize the separate harms caused to several victims. Given the extent of Long’s criminal

behavior, the number of separate victims, and the dangerous nature of the burglaries, we cannot say the sentence is inappropriate in light of the nature of her offenses.

III. Long's Character

With respect to Long's character, we note that she admitted to participating in between fifty and eighty burglaries in the past two years, sometimes up to three burglaries in a day. Long's criminal history consists of pleading guilty to twenty-five counts of possession of a forged instrument, all Class D felonies, three counts of fraudulent use of a credit card, all Class D felonies, and two counts of knowing exploitation of an adult, both Class C felonies. Those charges stemmed from Long taking advantage of patients in her care while working as a home-health aide by forging checks and making unauthorized purchases with their credit cards.

While on release pending sentencing on those convictions, Long committed the present offenses. In addition, Long faces charges in other counties in Indiana and in Kentucky for, altogether, eleven counts of complicity to burglary, two counts of receiving stolen property, two counts of tampering with evidence, one count of exploitation of an adult, and one count of theft by unlawful taking. In short, although Long's criminal activity is short in duration, it is very extensive in quantity and continued even after she pled guilty to the first charges against her. We also note that despite Long's contention that her brother had some control over her decision making, Long played an active role in the crimes: Long drove to her brother's house to pick him up; she used the stolen credit cards and helped sell stolen property; and she made no attempt to cease her criminal

behavior, to stop her brother, or to inform the police. These facts weigh against Long's character.

On the other hand, Long lived a law abiding life for thirty-six years before embarking on her present criminal behavior and had three minor children in her care who will likely suffer from her incarceration. In addition, Long expressed remorse on numerous occasions and gave complete confessions to the police and the trial court, including confessing to crimes for which she was not being charged. Long also pled guilty to all of the charges without the benefit of a plea agreement or concessions from the State. All of these circumstances weigh in favor of Long's character; however, we cannot say that they outweigh the circumstances weighing against her character such that her advisory sentences are inappropriate.

Conclusion

Long bears the burden of persuading us that her sentence is inappropriate in light of the nature of her offenses and her character, and she has failed to meet the burden. The nature of her offenses, especially the number of separate victims, and her character as revealed in her extensive criminal activity indicate that her sixty-year sentence is not inappropriate.

Affirmed.

DARDEN, J., and BAILEY, J., concur.