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**IN THE  
COURT OF APPEALS OF INDIANA**

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MICHAEL R. POLLARD, JR., )

Appellant-Defendant, )

vs. )

No. 45A05-0910-CR-594

STATE OF INDIANA, )

Appellee-Plaintiff. )

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APPEAL FROM THE LAKE SUPERIOR COURT  
The Honorable Thomas P. Stefaniak, Jr., Judge  
Cause No. 45G04-0903-FB-22

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**June 16, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

Michael Pollard pled guilty to dealing in cocaine, a class B felony,<sup>1</sup> and was sentenced to sixteen years. Pollard asserts that sentence is inappropriate in light of his offense and his character. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On February 13, 2009, Pollard sold cocaine to a confidential source who was working with the Hammond Police Department. He was arrested and charged with three counts of Class B felony dealing in cocaine and one count of Class A misdemeanor possession of marijuana.<sup>2</sup> On August 8, 2009, Pollard agreed to plead guilty to one count of dealing in cocaine, the State agreed to dismiss all other charges, and the parties left sentencing to the discretion of the trial court. The advisory sentence for a class B felony is ten years, with a sentencing range of six to twenty years.<sup>3</sup> The trial court imposed a sixteen-year sentence.

In sentencing Pollard, the trial court found as aggravating factors Pollard's criminal history, which included five misdemeanors and three Class D felonies, and his continued involvement in the drug trade. The trial court found as mitigating factors that Pollard pled guilty and accepted responsibility for his crime and that imprisonment would create an undue hardship on his three dependent children.

### **DISCUSSION AND DECISION**

We may revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. *Williams v. State*, 891 N.E. 2d 621, 633 (Ind. Ct. App. 2008)

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<sup>1</sup> Ind. Code § 35-48-4-1(a).

<sup>2</sup> Ind. Code § 35-48-4-11

<sup>3</sup> Ind. Code § 35-50-2-5

(citing Ind. Appellate Rule 7(B)). We consider not only the aggravators and mitigators found by the trial court, but also any other factors appearing in the record. *Roney v. State*, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), *trans. denied* 878 N.E.2d 217 (Ind. 2007). The appellant bears the burden of demonstrating his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

When considering the “character of the offender,”<sup>4</sup> one relevant fact is the defendant’s criminal history. *Rutherford v. State*, 866 N.E.2d 867, 874 (Ind. Ct. App. 2007). The significance of a criminal history in assessing a defendant’s character varies based on the gravity, nature, and number of prior offenses in relation to the current offense. *Id.* Pollard has multiple prior convictions related to drugs, including three cocaine offenses in the last ten years and one conviction of possession of marijuana. Pollard was on parole when he committed this offense, which reflects poorly on his character. *See Rich v. State*, 890 N.E.2d 44, 54 (Ind. Ct. App. 2008) (committing “offenses while on probation is a substantial consideration in our assessment of his character”), *trans. denied*. He also had prior convictions of maintaining a common nuisance, carrying a handgun without a license, conversion, and resisting law enforcement. Pollard notes his prior offenses were not violent crimes; but the absence of physical injuries or violence does not require us to ignore his significant criminal history. *See, e.g., White v. State*, 433 N.E.2d 761, 763 (Ind. 1982) (absence of physical injury or violence during a crime does not warrant reduction in sentence). In light of Pollard’s prior drug-related convictions and his commission of this

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<sup>4</sup> Pollard makes no argument regarding the nature of his offense.

crime while on parole, we cannot find his enhanced sentence inappropriate.

Because Pollard has not demonstrated his sentence is inappropriate in light of his character and offense, we affirm his sentence.

Affirmed.

BAILEY, J., and BARNES, J., concur.