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IN THE
COURT OF APPEALS OF INDIANA

KASI BALLEW,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 22A04-1008-CR-555
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE FLOYD SUPERIOR COURT
The Honorable Maria D. Granger, Judge
Cause No. 22D03-1003-FB-622

June 17, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Kasi Ballew appeals her sentence for Class B felony dealing in a schedule II controlled substance.[1] She argues her sentence is inappropriate based on the nature of the offense and her character. We affirm.

FACTS AND PROCEDURAL HISTORY

On March 11, 2010, Ballew arranged a drug deal of oxycontin to a confidential informant. In orchestrating the deal, she told the informant she did not like to "say much on the phone," (Tr. at 75), and she did not want to deliver the oxycontin at the Dairy Queen because of the police presence there. After Ballew's companion delivered the oxycontin, he told the confidential informant, "If you need more, call her." (*Id.*) She was charged with Class B felony dealing in a schedule II controlled substance.

On June 9, Ballew pled guilty to Class B felony dealing in a schedule II controlled substance without a plea agreement. At her sentencing hearing on August 12, the trial court found Ballew's criminal history an aggravating factor, and her guilty plea and expression of remorse to be mitigating factors. The trial court sentenced her to ten years, with five years suspended to probation. The court ordered Ballew to serve the last ninety days of her executed sentence in an inpatient drug rehabilitation program and then, as a condition of her release to probation, to spend 180 days in a halfway house and submit to outpatient mental health and substance abuse treatment.

[1] Ind. Code § 35-48-4-2(a)(1).

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) (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.* The appellant bears the burden of demonstrating her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

When considering the nature of the offense, the advisory sentence is the starting point to determine the appropriateness of a sentence. *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007), *clarified on reh'g* 878 N.E.2d 218 (Ind. 2007). The advisory sentence for a Class B felony is ten years, with a range of six to twenty years. Ind. Code § 35-50-2-5. One factor we consider when determining the appropriateness of a deviation from the advisory sentence is whether there is anything more or less egregious about the offense committed by the defendant that makes it different from the "typical" offense accounted for by the legislature when it set the advisory sentence. *Rich v. State*, 890 N.E.2d 44, 54 (Ind. Ct. App. 2008), *trans. denied*. Ballew argues her limited involvement in the crime, including that she did not deliver the drugs and she allegedly did not profit from the deal, makes it less egregious, but offers no explanation or authority to support that argument.

When considering the character of the offender, 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*. Ballew had three adjudications as a juvenile, two of which were drug-related. The trial court noted, "it appears you are a young woman who is of a good-hearted nature, but who has difficulty appreciating the law and its consequences, and appreciating the rules that society has, and being able to control your own behavior." (Tr. at 79.) The trial court also noted Ballew's guilty plea without the benefit of a plea agreement and her expression of remorse for her crime, both of which reflect positively on her character.

Based on the nature of Ballew's offense and her character, we cannot hold the court's imposition of the advisory sentence, ten years, with five years suspended to probation, to be inappropriate. Accordingly, we affirm the decision of the trial court.

Affirmed.

BAKER, J., and BRADFORD, J., concur.