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IN THE
COURT OF APPEALS OF INDIANA

TIMOTHY LEWIS WOODS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A04-1011-CR-752
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Kenneth R. Scheibenberger, Judge
Cause No. 02D04-0907-FD-709

June 24, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Timothy Lewis Woods ("Woods") appeals from the trial court's sentencing order after pleading guilty to receiving stolen property[1] as a Class D felony. Woods presents the following issue for our review: whether Woods' three-year sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

Woods pleaded guilty to receiving stolen property as a Class D felony. The facts supporting Woods' guilty plea were included in the probable cause affidavit that is attached to the pre-sentence investigation report. Woods was employed to mow the grass at Jennifer Shinabery's ("Shinabery") house on July 3, 2009. The next day, Shinabery noticed that a diamond ring was missing from the jewelry box in her room, and she reported the theft of her ring to the Fort Wayne Police Department on July 6, 2009. That same day, police officers were contacted by an employee of Cash American Pawn Shop where Woods was attempting to pawn Shinabery's diamond ring. The responding officer took possession of the ring from Woods and advised him to come to the police station the next day to make a statement.

Shinabery went to the police station on July 7, 2009 and brought a photograph of herself wearing the diamond ring. She identified Woods from a photo array and identified the ring as hers. Woods failed to meet with officers at the police station as previously arranged.

The trial court accepted Woods' guilty plea and sentenced him to a term of three years executed. Woods now appeals his sentence.

[1] Ind. Code § 35-43-4-2.

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). If the sentence imposed is lawful, this court will not reverse unless the sentence is inappropriate based on the character of the offender and the nature of the offense. Ind. Appellate Rule 7(B); *Boner v. State*, 796 N.E.2d 1249, 1254 (Ind. Ct. App. 2003). The burden is on the defendant to persuade this court that his sentence is inappropriate. *Patterson v. State*, 909 N.E.2d 1058, 1063 (Ind. Ct. App. 2009).

The sentencing range for a Class D felony is a fixed term of between six months and three years with the advisory sentence being one and one-half years. Ind. Code § 35-50-2-7.

Woods argues that the imposition of a three-year sentence in this situation is inappropriate in light of the nature of the offense and the character of the offender. More specifically, he argues that the sentence is inappropriate in light of his acceptance of responsibility by pleading guilty without the benefit of a plea agreement and the age of his prior convictions.

The trial court found Woods' five prior felony convictions and the failure of prior attempts at rehabilitation as aggravating factors. The trial court discussed the significance of Woods' decision to plead guilty, albeit the day before trial, as a mitigating factor before imposing the three-year sentence.

In regard to the nature of the offense, Woods was sent by his employer to Shinabery's house to mow her lawn. The next day, Shinabery noticed that her diamond ring was missing, and Woods was found in possession of the ring at a pawn shop attempting to pawn the ring. Assuming *arguendo* that the nature of the crime was not remarkable, Woods nonetheless violated the trust of his employer and Shinabery, the homeowner and victim in this case.

As for the character of the offender, we note that Woods did plead guilty. However, Woods' guilty plea came the day before his trial. Thus, the State and the victim received very slight benefit from Woods' plea. Woods has previously been involved in the judicial system, and fails to adhere to the rules of society and lead a law-abiding life. Woods has a criminal history consisting of two misdemeanor convictions and five felony convictions, including two for the offense of escape, and three involving burglary or aiding in a burglary.

Woods has failed to persuade us that his sentence is inappropriate in light of the nature of the offense and the character of the offender. Affirmed.

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