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# IN THE
# COURT OF APPEALS OF INDIANA

| | | |
|---|---|---|
| CLAUDE CARTER, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 02A03-0902-CR-61 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Kenneth R. Scheibenberger, Judge
Cause No. 02D04-0806-FD-457

**July 8, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## Case Summary

Claude Carter ("Carter") appeals his sentence for Possession of Marijuana, as a Class D felony,[1] and Disorderly Conduct, as a Class B misdemeanor.[2] We affirm.

## Issue

Carter raises the sole issue of whether his sentence is inappropriate.

## Facts and Procedural History

In 2005, Carter was convicted of Possession of Marijuana. On July 24, 2007, he was "yelling and being loud and continued to do so after being asked to stop." Appendix at 12. At the time, he was in possession of marijuana.

The State charged Carter with Possession of Marijuana and asserted that he had a prior conviction of that offense; it also charged him with Disorderly Conduct. He pleaded guilty to the charges.

The trial court sentenced Carter to terms of one and a half years for the Class D felony and 180 days for the Class B misdemeanor. The sentences were to run concurrently and be executed in their entirety.

Carter now appeals.

## Discussion and Decision

Carter argues that his sentence is inappropriate. Under Indiana Appellate Rule 7(B), this "Court may revise a sentence authorized by statute if, after due consideration of the trial

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[1] Ind. Code § 35-48-4-11.

[2] Ind. Code § 35-45-1-3.

court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Ind. Appellate Rule 7(B); see IND. CONST. art. VII, § 6. In performing our review, we assess "the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." Cardwell v. State, 895 N.E.2d 1219, 1224 (Ind. 2008). This "introduces into appellate review an exercise of judgment that is unlike the usual appellate process, and is very similar to the trial court's function." Id. at 1223. A defendant "'must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.'" Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007) (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

Carter suggests that he and society "would have been better served by" another sentence. Appellant's Brief at 5. However, that is not the issue. "[T]he question under Appellate Rule 7(B) is not whether another sentence is more appropriate; rather, the question is whether the sentence imposed is inappropriate." King v. State, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008).

As to the nature of the offense, the advisory sentence "is the starting point the Legislature has selected as an appropriate sentence for the crime committed." Childress, 848 N.E.2d at 1081. Carter received the advisory sentence of one and a half years for Possession of Marijuana, as a Class D felony. See Ind. Code § 35-50-2-7. He received the maximum sentence of 180 days for Disorderly Conduct, as a Class B misdemeanor. See Ind. Code § 35-50-3-3. The record on appeal contains little information regarding the offense, aside from

Carter's admitting to the charged conduct.

Meanwhile, regarding Carter's character, his criminal history is extremely lengthy. From 1971, his adult record includes fifty-six misdemeanor convictions, five felony convictions, and eight revocations of a suspended sentence. In the twenty-two years Carter has spent in Indiana, he has thirty convictions, more than one per year, as well as seven revocations. While half of his Indiana convictions were Class C misdemeanors related to drugs or alcohol, his record nonetheless reflects a refusal to obey the law and to deal with his substance abuse. Based upon our review of the record, Carter's sentence is not inappropriate.

Affirmed.

DARDEN, J., and ROBB, J., concur.