



## Case Summary

Lawrence Lee Jones (“Jones”) appeals his sentence, arguing that it is inappropriate.

We affirm.

### Facts and Procedural History

In 2008, Jones helped Michael Pruitt manufacture methamphetamine by purchasing some of the required materials. In addition, he and his girlfriend provided Pruitt a place to manufacture methamphetamine.

The State charged Jones with Attempted Dealing in Methamphetamine, as a Class A felony, and Reckless Possession of Paraphernalia, a Class B misdemeanor. Jones and the State proposed a plea agreement, by which the State would dismiss the second charge and Jones would plead guilty to Attempted Dealing in Methamphetamine, as a Class B felony.<sup>1</sup> They also agreed that “the Court shall conduct a sentencing hearing to determine, in its sole discretion, the defendant’s sentence.” Appendix at 34. Finally, the plea agreement provided that Jones would pay court costs, probation fees, “if any probation is ordered,” a \$400 public-defender fee, and a drug interdiction fee. *Id.* at 35.

Upon the conclusion of the sentencing hearing, the trial court imposed an eight-year sentence, with the first six years executed in the Department of Correction and the final two years suspended. Jones was placed on supervised probation for two years. In addition, the trial court ordered Jones to:

- (1) Submit to an alcohol and drug program;

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<sup>1</sup> Ind. Code §§ 35-48-4-1.1, 35-41-5-1.

- (2) Pay court costs, probation fees, drug and alcohol fees, a \$200 drug-interdiction fee, and a \$400 public-defender fee; and
- (3) Pay all costs and fees as a term of probation.

Jones now appeals.

### **Discussion and Decision**

Jones argues that his sentence is inappropriate. He acknowledges, however, that Indiana's sentencing statutes required the trial court to impose no less than a six-year executed sentence, in light of his having a prior unrelated felony conviction. Appellant's Brief at 5; see also Ind. Code § 35-50-2-2(b)(1); and Ind. Code § 35-50-2-5. Jones therefore challenges the only portion of his sentence that he can possibly challenge – the trial court's imposition of two years beyond the six-year minimum sentence for a Class B felony, the trial court's imposition of fees, and its requiring him to participate in a drug and alcohol program.

With respect to the fees and the drug and alcohol program, Jones concludes his Appellant's Brief as follows:

Appellant respectfully requests this court to revise his sentence to a 6 year executed sentence. In the alternative, Appellant respectfully requests that the 2 year period of probation be revised to unsupervised probation, and that reporting to probation, attending the court alcohol program, and the payment of all fines, fees and costs be eliminated.

Appellant's Br. at 6. However, in the plea agreement, Jones agreed to pay court costs, probation fees, the \$400 public-defender fee, and a drug-interdiction fee. Furthermore, during the sentencing hearing, Jones acknowledged using marijuana several times and represented to the trial court his willingness to participate in a drug program, testifying:

Q: Are you asking his honor to, ah, give you an opportunity at a, at a relatively short period of incarceration in this case.

A: Yes, sir. Show him that I'll never be in here again, you will never see me again, because I'm going to get out, find a drug program, a job and be with my family. I will never, you'll never have to worry about me again, sir.

Q: Well, um, you, ah, if the Judge, uh, does suspend some of your sentence, um, he can place you on probation and have you go to the court's program.

A: (inaudible) drug test every week.

Q: Okay.

A: Every day.

Q: But they also have the drug counseling program that they can get you . . .

A: I would like to get into, yes, sir.

App. at 98-99 (emphases added). Having agreed to the imposition of fees in the plea agreement and having told the trial court that he wanted to participate in a drug program, Jones cannot now challenge these elements of the sentencing order. We therefore review only the trial court's imposition of an eight-year term, with two years suspended to supervised probation.

Under Indiana Appellate Rule 7(B), this “Court may revise a sentence authorized by statute if, after due consideration of the trial 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. 7, § 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).

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. The minimum, advisory, and maximum sentences for a Class B felony are respectively six years, ten years, and twenty years. I.C. § 35-50-2-5. Here, the trial court imposed an eight-year term, two years less than the advisory sentence. It ordered Jones to execute six years, the minimum allowed by statute, as referenced above, as well as two years suspended to supervised probation. Jones assisted in the manufacture of methamphetamine by providing a place for it to be manufactured and by acquiring some of the required materials, specifically, Sudafed and red phosphorous.

Regarding Jones’ character, his last conviction, Burglary, as a Class B felony, was nine years prior to his conduct in the instant matter. Also, he was convicted of Possession of Marijuana in 1993 and 1997. Jones violated his probation for the 1993 conviction, but the revocation was later dismissed at the request of the Jackson County Drug and Alcohol Program (“Drug Program”). The Drug Program also petitioned the trial court to revoke

Jones' probation for his 1997 conviction; the court released him once he paid \$475 for outstanding fees.

Jones' sentence exceeded the statutory minimum by only two years, which was suspended to supervised probation. The record reflects his use of marijuana over an extended period of time, as well as his use of methamphetamine within the context of the instant matter. Especially in light of Jones' acknowledgement during the sentencing hearing that he would benefit from participating in what would be at least his third drug and alcohol program, we conclude that Jones' sentence of eight years, with two years suspended to supervised probation, is not inappropriate.

Affirmed.

VAIDIK, J., and BRADFORD, J., concur.