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# IN THE
# COURT OF APPEALS OF INDIANA

| | | |
|---|---|---|
| JOHN KADER, | ) | |
| | ) | |
| Appellant-Defendant, | ) | |
| | ) | |
| vs. | ) | No. 54A04-0904-CR-193 |
| | ) | |
| STATE OF INDIANA, | ) | |
| | ) | |
| Appellee-Plaintiff. | ) | |

APPEAL FROM THE MONTGOMERY SUPERIOR COURT
The Honorable David A. Ault, Judge
Cause No. 54D01-0806-FB-251

**September 2, 2009**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant John Kader appeals the aggregate twenty-year sentence imposed by the trial court after Kader pleaded guilty to two counts of Burglary,[1] a class B felony, arguing that the sentence is inappropriate in light of the nature of the offenses and his character. Finding that the sentence is not inappropriate, we affirm.

FACTS

On June 15, 2008, Kader broke into Richard Coffing's residence with the intent to commit theft therein; the amount of resulting property damage and loss totaled $2,453.27. On June 16, 2008, Kader broke into Michael and Stephanie Stringham's residence with the intent to commit theft therein; the amount of resulting property damage and loss totaled $3,330.62.

On June 20, 2008, the State charged Kader with four counts of class B felony burglary and four counts of class D felony theft in this cause. The State also charged Kader with committing additional offenses under other cause numbers, namely, class C felony burglary, class D felony theft, class A misdemeanor mischief to property, and four counts of class D felony receiving stolen property. The State also filed a habitual offender allegation. On February 26, 2009, Kader pleaded guilty to two counts of class B felony burglary in this cause in exchange for the State's agreement to dismiss all other pending charges in all causes.

At the February 26, 2009, sentencing hearing, the trial court found the following aggravating factors: Kader's substantial criminal history, his past rehabilitation failures, and the fact that he committed the instant offenses while out on bond. The trial court

[1] Ind. Code § 35-43-2-1.

found no mitigating circumstances and imposed fully executed twenty-year sentences on each of Kader's two convictions, to be served concurrently. Kader now appeals.

## DISCUSSION AND DECISION

Kader's sole argument on appeal is that the sentences imposed by the trial court are inappropriate in light of the nature of the offenses and his character pursuant to Indiana Appellate Rule 7(B). In reviewing a Rule 7(B) appropriateness challenge, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Here, the trial court imposed the maximum sentence of twenty years on each of Kader's two class B felony convictions. Ind. Code § 35-50-2-5.

As for the nature of the offenses, Kader was charged with burglarizing four families' homes and admitted to burglarizing two residences. He broke into these homes, causing damage to the residents' property, he stole thousands of dollars of goods, and he disrupted the families' sense of security.

Turning to Kader's character, the trial court observed that he has had a seemingly "unbroken twenty[-]year history of ongoing criminal behavior[.]" Tr. p. 41. Dating back to 1987, Kader has been arrested for twenty-four crimes and convicted of ten. Specifically, he has amassed convictions for two counts of battery, two counts of failure to stop, two counts of domestic battery, theft, resisting law enforcement, operating while intoxicated, and possession of narcotics.

Kader has been offered multiple chances to change his behavior on probation, but has never completed probation successfully. The trial court found that he has "rejected every opportunity from the criminal justice system and family" to "make changes in [his] life[.]" Id. at 42.

Kader has a GED and has completed coursework at various trade and technical colleges, but at the time he committed the instant offenses, he was unemployed. His last position was as a self-employed painter. Kader also abuses drugs. Specifically, he is addicted to prescription medication and has a history of abusing other controlled substances, including heroin, cocaine, and marijuana.

We acknowledge that Kader pleaded guilty to two counts of class B felony burglary, but emphasize that he reaped a substantial benefit in exchange. Specifically, the State agreed to dismiss two class B felony charges, one class C felony charge, nine class D felony charges, one class A misdemeanor charge, and the habitual offender allegation. Under these circumstances, we agree with the trial court's conclusion that Kader's decision to plead guilty was purely pragmatic.

Kader has been given multiple opportunities to reform his behavior over the past twenty years. Instead of taking advantage of those chances, however, he chooses to continue to disregard the rule of law and his fellow citizens. Given the way in which Kader has spent the past twenty years, we do not find the concurrent twenty-year sentences imposed by the trial court inappropriate in light of the nature of the offenses and Kader's character.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and RILEY, concur.