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ATTORNEY FOR APPELLANT:

A. FRANK GLEAVES III
Marion County Public Defender
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

KELLY A. MIKLOS
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

GERALD TROTTER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0904-CR-331
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Ruth D. Reichard, Senior Judge
Cause No. 49G05-0304-PC-64812

October 15, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Gerald Trotter appeals his sentence for Child Molesting, as a Class A felony, following a guilty plea. He presents a single issue for our review, namely, whether the trial court's imposition of ten years probation was an abuse of discretion.

We affirm.

FACTS AND PROCEDURAL HISTORY

On August 9, 2002, Trotter, who was living with his girlfriend at the time, molested S.K., a ten-year-old friend of Trotter's girlfriend's daughter. Trotter penetrated S.K.'s vagina with his finger. The State charged Trotter with three counts of child molesting, two as Class A felonies and one as a Class C felony. Trotter pleaded guilty to one count of child molesting, as a Class A felony, and the State dismissed the other charges. Trotter's plea agreement capped the executed portion of his sentence at twenty years, but otherwise left sentencing to the trial court's discretion. The State recommended that Trotter serve a minimum of three years probation.

At sentencing, the trial court identified aggravators and mitigators and sentenced Trotter to forty years with twenty years executed and ten years probation. In 2009, Trotter filed a petition for permission to file a belated notice of appeal, which the trial court granted. This appeal ensued.

DISCUSSION AND DECISION

Trotter's sole contention on appeal is that the trial court abused its discretion when it imposed ten years probation. Trotter does not challenge the executed portion of his sentence. Because Trotter committed this crime in 2002, we review his sentence under

the pre-Anglemyer statutory scheme. The determination of the appropriate sentence rests within the discretion of the trial court, and we will not reverse the trial court's determination absent a showing of manifest abuse of that discretion. Bacher v. State, 722 N.E.2d 799, 801 (Ind. 2000). The trial court's wide discretion extends to determining whether to increase the presumptive sentence, to impose consecutive sentences on multiple convictions, or both. Singer v. State, 674 N.E.2d 11, 13 (Ind. Ct. App. 1996). If the sentence imposed is authorized by statute, we will not revise or set aside the sentence unless it is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B); McCann v. State, 749 N.E.2d 1116, 1121 (Ind. 2001).

The presumptive sentence for a Class A felony is thirty years, and the trial court is permitted to add up to twenty years for aggravating circumstances or subtract up to ten years for mitigating circumstances. See Ind. Code § 35-50-2-4 (2002). Here, Trotter's plea agreement capped his executed sentence at twenty years, and the State requested a "minimum of three years on Sex Offender Probation[.]" Appellant's App. at 64. The plea agreement otherwise left sentencing to the trial court's discretion.

At sentencing, the trial court identified two mitigators, namely, Trotter's expression of remorse and his guilty plea. And the trial court identified four aggravators, namely, his criminal history, his prior violation of probation, the young age of the victim, and the exceptional emotional trauma suffered by the victim. Accordingly, the trial court imposed a forty-year sentence with twenty years executed and ten years probation.

On appeal, Trotter contends that the trial court should have imposed a shorter term of probation in light of his minor criminal history and the State's recommendation that a minimum of three years probation be imposed. Trotter points out that his sole felony conviction occurred in 1984, when he was seventeen years old.[1] And his only other convictions are two misdemeanor convictions. Regardless, Trotter has previously violated probation, and the trial court found aggravating the severity of the emotional trauma to Trotter's victim in this case. S.K. has been diagnosed with post-traumatic stress disorder, and the trial court acknowledged that she will likely require years of therapy and will possibly need to take antidepressants for the rest of her life. Trotter does not contend that the term of his probation is inappropriate in light of the nature of the offense or his character.

The trial court's imposition of twenty years executed and ten years probation is authorized by statute and comports with the terms of Trotter's plea agreement. The State recommended a minimum of three years probation. Trotter has not demonstrated that the imposition of ten years probation was a manifest abuse of discretion.

Affirmed.

KIRSCH, J., and BARNES, J., concur.

[1] Trotter was charged and convicted as an adult for that offense.