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IN THE
COURT OF APPEALS OF INDIANA

MICHAEL JOHN NEELY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A03-0907-CR-306
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ST. JOSEPH CIRCUIT COURT
The Honorable Michael G. Gotsch, Judge
Cause No. 71C01-0602-FC-4

November 10, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Michael John Neely ("Neely") pleaded guilty in St. Joseph Circuit Court to one count of Class C felony non-support of a dependent child and three counts of Class D felony non-support of a dependent child. He was sentenced to an aggregate term of six years. Neely appeals and argues that his six-year sentence is inappropriate in light of the nature of his offenses and the character of the offender.

We affirm

Facts and Procedural History

On February 17, 2006, the State charged Neely with one count of Class C felony non-support of a dependent child and three counts of Class D felony non-support of a dependent child. As of April 15, 2009, Neely had failed to pay child support to the four mothers of his four dependent children in the amounts of $44,438.68, $18,441.81, $10,208.49, and $8,441.81, respectively. On April 1, 2009, Neely pleaded guilty in an open plea to all four counts. On April 28, 2009, the trial court sentenced Neely to six years for the Class C felony and two years on each of the three Class D felonies. The sentences for the Class D felonies were to be served consecutively to each other but concurrent with the Class C felony. The trial court also ordered that Neely pay restitution of $81,725.52 as a lien and entered a judgment in favor of the State for the costs of extradition in the amount of $1,047.20. Neely appeals.

Discussion and Decision

Neely argues that his sentence is inappropriate under Indiana Appellate Rule 7(B), which provides: "The 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." In Anglemyer v. State, our supreme court explained:

> It is on this basis alone that a criminal defendant may now challenge his or her sentence where the trial court has entered a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence that is supported by the record, and the reasons are not improper as a matter of law, but has imposed a sentence with which the defendant takes issue.

868 N.E.2d 482, 494 (Ind. 2007). "[A] defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review." Id.

Neely asks that we ignore his past and focus only upon his present. However, even if we were to do so, Neely presently owes more than $81,000 in child support arrearages to the four mothers of his four children. The amounts owed are $44,438.68, $18,441.81, $10,208.49, and $8,441.81, respectively. He has been accumulating these child support arrearages for approximately ten years. Pre-sentence Investigation Report p. 11. The trial court determined that the amount owed by Neely probably makes him "the second highest deadbeat parent that's come before this Court in the last five years." Tr. p. 12. The length of time of non-payment and the huge amount of child support arrearage accumulated by Neely makes the nature of these offenses outrageous.

Neely's character also supports the appropriateness of his sentence. Neely has an extensive criminal history that began at the age of thirteen. At the time the instant charges were filed, he had already been convicted of one felony and three misdemeanors. During the pendency of this case, Neely was convicted of three more felonies and four more misdemeanors. He has had numerous opportunities to succeed while on probation, yet he has not taken advantage of these opportunities. In fact, Neely was on probation

when he committed the instant offenses. In addition, Neely had to be extradited twice to appear on these charges. Finally, the trial court noted that, although he currently has four children that he has failed to support, Neely is now expecting a fifth child with a different mother.

For nearly ten years, Neely has shirked his responsibility to provide for the children he has helped bring into this world in the aggregate amount of over $81,000. Neely seeks yet another chance because he now has remarried and expecting another child with his new wife and is gainfully employed. Neely has had ten years to avoid the sentence pronounced by the trial court but always had other priorities. Neely's six-year sentence is not inappropriate in light of the nature of his offenses and the character of the offender.

Affirmed.

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