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FILED
Dec 29 2009, 9:28 am
CLERK
of the supreme court, court of appeals and tax court

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IN THE
COURT OF APPEALS OF INDIANA

JEANNE JIMENEZ,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 57A05-0906-CR-330
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE NOBLE SUPERIOR COURT
The Honorable Robert E. Kirsch, Judge
Cause No. 57D01-0811-FA-19

December 29, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Jeanne Jimenez appeals her ten-year sentence for Aiding in the Manufacture of Methamphetamine, as a Class B felony,[1] alleging that the sentence is inappropriate.[2] We affirm.

Facts and Procedural History

On June 8, 2008, Jimenez was in the Kendalville Wal-Mart when she placed some items in a bag and began walking out of the store without paying for the merchandise. On November 6, 2008, Jimenez picked up a pair of pliers while in the Avilla Hardware Store in Noble County and walked out without paying for them. For these incidents, the State charged Jimenez with two counts of Conversion, as Class A misdemeanors.[3]

On November 22, 2008, in exchange for forty dollars, Jimenez drove Jacob Phillips and Randolph Marks to a store in Noble County and purchased Pseudoephedrine for them. She then drove one of them to a separate store so a second box could be purchased as well as some tubing and batteries. Jimenez was aware that these items were purchased so that Phillips and Marks could manufacture methamphetamine. After returning Phillips and Marks to Phillips's apartment, Jimenez received a call from Phillips in which he said that the container used to make the methamphetamine exploded.

The State charged Jimenez with Aiding in the Manufacture of Methamphetamine, as a

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[1] Ind. Code § 35-48-4-1.1.
[2] She does not challenge her two Conversion convictions.
[3] Ind. Code § 35-43-4-3.

Class A felony,[4] in a cause number separate from the Conversion charges. Pursuant to an oral agreement, Jimenez pled guilty to the two Conversion charges and the Aiding in the Manufacture of Methamphetamine charge in exchange for the State agreeing to no executed time, suspended time or fines in the Conversion cases and amending the Manufacturing charge to a B felony. Her sentence for the felony conviction was left to the discretion of the trial court. The trial court accepted her guilty plea, entered the convictions, and sentenced Jimenez to ten years with three years suspended for the Aiding in the Manufacturing of Methamphetamine conviction.

Jimenez now appeals.

Discussion and Decision

In Reid v. State, the Indiana Supreme Court reiterated the standard by which our state appellate courts independently review criminal sentences:

> Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution authorize independent appellate review and revision of a sentence through Indiana Appellate Rule 7(B), which provides that a 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. The burden is on the defendant to persuade us that his sentence is inappropriate.

Reid v. State, 876 N.E.2d 1114, 1116 (Ind. 2007) (internal quotation and citations omitted).

More recently, the court reiterated that "sentencing is principally a discretionary function in which the trial court's judgment should receive considerable deference."

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[4] Ind. Code § 35-48-4-1.1(b). The apartment complex where the methamphetamine lab exploded was within 1,000 feet of a public park.

Cardwell v. State, 895 N.E.2d 1219, 1222 (Ind. 2008). Indiana's flexible sentencing scheme allows trial courts to tailor an appropriate sentence to the circumstances presented. See id. at 1224. One purpose of appellate review is to attempt to "leaven the outliers." Id. at 1225. "[W]hether we regard a sentence as appropriate at the end of the day turns on our sense of 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." Id. at 1224.

Jimenez pled guilty to a Class B felony, which has a sentencing range of six to twenty years, with ten years as the advisory. See Ind. Code § 35-50-2-5. The trial court sentenced Jimenez to ten years with three years suspended. Jimenez argues that her sentence is inappropriate and requests that it be revised.

As to the nature of the offense, Jimenez, despite her knowledge of the volatile nature of the process, assisted Phillips and Marks in obtaining ingredients to manufacture methamphetamine in an apartment complex. In exchange for forty dollars, she agreed to help these men so that Marks could have one last party before serving a criminal sentence. The lab exploded, causing severe injuries to Marks.

As to the character of the offender, Jimenez has a criminal history including convictions for possession of marijuana, retail theft (Illinois conviction), and two counts of criminal mischief. Furthermore, she was out on bail for the conversion charges when she committed the present offense. Jimenez voluntarily reported her involvement in the methamphetamine lab and agreed to plead guilty to a lesser included offense. She also received the benefit of no sentence or fine imposed for her Conversion convictions. Similar

to many defendants, Jimenez has a dependent who is now residing with another family member due to her incarceration. Jimenez also takes medication for her mental health conditions of depression, bi-polar disorder, and attention deficit/hyperactivity disorder.

In light of the nature of the offense and the character of the offender, Jimenez has not convinced this court that her sentence of ten years with three years suspended is inappropriate.

Affirmed.

BAKER, C.J., and ROBB, J., concur.