



Jezrael T.S. Vaughn (“Vaughn”) pleaded guilty in Ohio Circuit Court to Class B felony dealing in a controlled substance and was sentenced to twenty years in the Indiana Department of Correction. Vaughn appeals, arguing that his sentence is inappropriate in light of the nature of the offense and the character of the offender. We affirm.

### **Facts and Procedural History**

On March 24, 2009, a postal inspector discovered a package addressed to Vaughn containing approximately three pounds of marijuana and eight hundred dollars. The following day, Dearborn County detectives observed Vaughn at the post office picking up packages including the one containing marijuana. A subsequent search of Vaughn’s home led to the discovery of chemical components for the manufacturing of anabolic steroids, a controlled substance, and other drug paraphernalia.

On June 4, 2009, Vaughn was charged with three counts of Class B felony dealing in a controlled substance and three counts of Class D felony dealing in marijuana. Vaughn pleaded guilty to one count of Class B felony dealing in a controlled substance in exchange for dismissal of the remaining charges. Vaughn’s guilty plea was open as to sentence. On June 28, 2009, the trial court sentenced Vaughn to twenty years in the Indiana Department of Correction, the maximum sentence. Vaughn now appeals.

### **Discussion and Decision**

Vaughn argues that the trial court’s sentence is inappropriate in light of the nature of the offense and the character of the offender. Although a trial court may have acted within its lawful discretion in imposing a sentence, Article 7, Sections 4 and 6 of the Indiana Constitution authorize independent appellate review and revision of a sentence

imposed by the trial court. Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007). This appellate authority is implemented 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.” Id. However, “we must and should exercise deference to a trial court’s sentencing decision, both because Rule 7(B) requires us to give ‘due consideration’ to that decision and because we understand and recognize the unique perspective a trial court brings to its sentencing decisions.” 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).

Vaughn pleaded guilty to Class B felony dealing in a controlled substance. Under Indiana Code section 35-50-2-5 (2005), “[a] person who commits a Class B felony shall be imprisoned for a fixed term of between six and twenty years, with the advisory sentence being ten years.” The trial court sentenced Vaughn to twenty years in the Department of Correction, the maximum allowed under the law.

Generally, the maximum possible sentence is appropriate for the worst offenders. Reid v. State, 876 N.E.2d 1114, 1116 (Ind. 2007). This is not, however, an invitation to determine whether a worse offender could be imagined. Buchanan v. State, 767 N.E.2d 967, 973 (Ind. 2002). In stating that maximum sentences are ordinarily appropriate for the worst offenders, we refer generally to the class of offenses and offenders that warrant the maximum punishment. Id. But this encompasses a considerable variety of offenses

and offenders. Id. Rather than compare this case to others, we focus on the nature of the offense and what it reveals about the defendant's character. Wells v. State, 904 N.E.2d 265, 274 (Ind. Ct. App. 2009), trans. denied.

Regarding the nature of the offense before us, the record reveals that Vaughn had committed multiple offenses between August 2008 and March 2009 and that his criminal activity included multi-state and international transactions. Vaughn would have us consider these multiple offenses as one ongoing act of criminal conduct rather than separate incidents. Vaughn further argues his crime was not particularly egregious because he only provided drugs to those he knew were already addicted and he did so only to supply his own drug habit. However, the large quantity of drugs involved and the fact that but for the plea agreement, Vaughn would likely be facing multiple convictions for dealing offenses convinced the trial court, and convinces us, that Vaughn's offense was more egregious than he would have us believe.

Considering Vaughn's character, we note that Vaughn has a criminal history of another Class B felony dealing in a controlled substance conviction, for which he was on probation at the time of the instant offense. Clearly Vaughn has not chosen to modify his behavior to conform with the law despite the leniency that had been shown to him in the past. Instead, Vaughn significantly increased the scope of his criminal activity in comparison to his prior offense. And while Vaughn spared judicial resources and took responsibility for his crime by pleading guilty, he received a substantial benefit for doing so by having the remaining charges dismissed.

Finally, Vaughn asks this court to consider the cost of his incarceration to the State and argues, without support, that drug treatment would be a more cost-effective alternative. However, the record reveals that Vaughn chose to engage in crime to support his addiction instead of seeking treatment when he had the chance, and, in any event, the cost to incarcerate Vaughn has no bearing on the nature of his offense or his character. Furthermore, if Vaughn wishes to combat the rising cost of incarceration, his most effective decision would have been to not engage in criminal activity in the first place.

Under these facts and circumstances, and giving due consideration to the trial court's sentencing discretion, we cannot conclude that Vaughn's twenty-year sentence is inappropriate.

Affirmed.

FRIEDLANDER, J., and MAY, J., concur.