

STATEMENT OF THE CASE

Defendant-Appellant Loren C. Lewis appeals the sentence the trial court imposed for his conviction of nonsupport of a dependent child, a Class D felony. Ind. Code § 35-46-1-5 (2001). We affirm.

ISSUE

Lewis raises one issue, which we restate as whether his sentence is inappropriate in light of the nature of the offense and the character of the offender.

FACTS AND PROCEDURAL HISTORY

On April 28, 2008, the Noble Circuit Court issued an order establishing Lewis' paternity of a minor child. The Circuit Court ordered Lewis to pay child support, retroactive to February 27, 2008. Lewis made some payments toward his child support obligations but paid zero support after July 1, 2009.

On May 14, 2010, the State charged Lewis with nonsupport of a dependent child, alleging that his unpaid child support totaled \$5,054.00. Subsequently, Lewis pleaded guilty without a plea agreement. The trial court sentenced Lewis to two and one-half years.

DISCUSSION AND DECISION

Lewis' sentencing challenge is governed by Indiana Appellate Rule 7(B), which provides, in relevant part, "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." To assess the appropriateness of the sentence, we look first to the statutory range established

for the class of the offense. Here, the offense is a Class D felony, for which the advisory sentence is one and one-half years, the shortest sentence is six months, and the longest sentence is three years. Ind. Code § 35-50-2-7 (2005). Lewis received a two and one-half year sentence.

We then look to the nature of the offense and the character of the offender. The nature of the offense is found in the details and circumstances of the commission of the offense and the defendant's participation in it. *See Gauvin v. State*, 883 N.E.2d 99, 105 (Ind. 2008) (noting that the defendant's crimes were "heinous and cruel"). The character of the offender is found in what we learn of the offender's life and conduct. *See generally Houser v. State*, 823 N.E.2d 693 (Ind. 2005) (reviewing the defendant's childhood, history of drug abuse, diagnosis of mental illness, and extensive criminal history).

An inappropriate sentence is not an erroneous sentence. It is a sentence authorized by statute, but one we find inappropriate and revise in light of the offense and the character of the offender. In reviewing a sentence, we give due consideration to the trial court's decision and its more direct knowledge of the offense and the offender. *See Wilkes v. State*, 917 N.E.2d 675, 693 (Ind. 2009) (stating, "[a]s in all sentencing, . . . we give considerable deference to the ruling of the trial court"). The burden is on the defendant to persuade us that the sentence of the trial court meets the inappropriateness standard of review. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

Our review here of the nature of the offense shows that Lewis was ordered to pay child support beginning on April 28, 2008 (retroactively effective to February 27, 2008),

and only partially fulfilled his obligations. Lewis asserts that he was incarcerated from August 28, 2009 through the date he was sentenced in this case, which limited his ability to make payments, but he fails to acknowledge that he had failed to fulfill his child support obligations prior to his incarceration.

Our review here of the character of the offender shows that Lewis has an extensive, steady criminal history. Lewis was forty-three years old at sentencing,¹ and, by that time, he had accrued at least thirteen misdemeanor and five felony convictions in multiple states. While this case was pending, Lewis was charged and convicted of two counts of domestic violence in Ohio. Furthermore, Lewis has violated the terms of his probation in the past, has failed to appear for criminal proceedings, and has violated the terms of a no contact order issued in an Ohio criminal proceeding. Lewis' criminal history demonstrates disrespect for the law and an unwillingness to learn from his past criminal conduct.

We conclude that Lewis has not carried his burden of persuading this Court that his sentence has met the inappropriateness standard of review. *See Hollar v. State*, 916 N.E.2d 741, 744-45 (Ind. Ct. App. 2009) (determining that the defendant's enhanced sentence for nonsupport of a child was not inappropriate due to his lengthy criminal history and his ability to pay his child support obligations).

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

Affirmed.

¹ There was some dispute as to Lewis' age at sentencing due to his history of providing false birthdates.

BAILEY, J., and BARNES, J., concur.