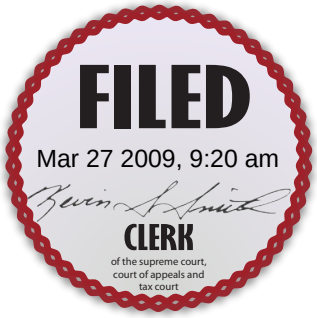

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IN THE
COURT OF APPEALS OF INDIANA

JAMIE LONG,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 61A01-0812-CR-562
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE PARKE CIRCUIT COURT
The Honorable Sam A. Swaim, Judge
Cause No. 61C01-0808-FC-152

March 27, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Jamie Long appeals her sentence following a plea of guilty to aiding escape as a class C felony.[1]

We affirm.

ISSUE

Whether the trial court erred in sentencing Long.

FACTS

Long met Sarah Pender when they were inmates in the Marion County Jail in 2001. Subsequently, they both served time at the Indiana Women's Prison in Indianapolis. The two women formed "an intimate relationship," and Long referred to Pender as her "'wife.'" (App. 12). At some point, Long was released from prison. In 2002, Pender began serving a 110-year sentence for two felony murder convictions at the Rockville Correctional Facility (the "Facility"). Long often visited Pender at the Facility.

On August 4, 2008, Pender escaped from the Facility. Knowing that Long was a frequent visitor of Pender, law enforcement officers questioned her at her Indianapolis residence that same day. She denied having knowledge of Pender's escape or her whereabouts.

On August 5, 2008, Scott Pitler, a correctional officer at the Facility, admitted to driving Pender out of the Facility and dropping her off in the Facility's parking lot, where she received a ride from Long. Armed with this information, officers again questioned

[1] Ind. Code §§ 35-44-3-5; 35-41-2-4.

Long. She admitted to driving Pender to Indianapolis and providing her with $140.00. She also admitted that Pender had $700.00 sent to her home.

On August 7, 2008, the State charged Long with aiding escape as a class C felony. On September 18, 2008, Long and the State entered into a plea agreement, whereby Long agreed to plead guilty as charged. The plea agreement did not provide a sentence recommendation.

On October 7, 2008, the trial court accepted the plea agreement and held a sentencing hearing. According to the pre-sentence investigation report (the "PSI"), Long reported that she had had "12-15 prior convictions . . . ." (PSI at 3). Only two convictions, a class D felony for operating while intoxicated in 2004 and a class D felony for possession of cocaine in 1990, could be confirmed. During the hearing, Long testified that she had "been in and out of Marion County [Jail] probably 12 to 15 times" on misdemeanor charges, many of which resulted in convictions. (Sent. Tr. 5). According to the PSI, Long had violated probation in the past but had never had her probation revoked.

Larry Long, Long's husband, testified at the sentencing hearing. According to him, Long had "spent hours working with [the U.S. Marshals] trying to locate [Pender] so they could capture her." (Sent. Tr. 9). He also testified that Long had set up a meeting with Pender at the behest of law enforcement officials, but Pender "never showed."[2] *Id.*

The trial court found, in relevant part, as follows:

[2] On December 20, 2008, law enforcement apprehended Pender in Chicago after receiving an anonymous tip. http://www.usmarshals.gov/investigations/most_wanted/pender/pender_cap.htm (last visited Feb. 25, 2009).

> Looking at aggravators or mitigators in consideration for sentencing, the Court would note that you do have a criminal history not only as outlined in the [PSI], but your testimony and report from Probation that you've been in and out of Marion County Jail, that you've had 12 to 15 prior convictions for various criminal offenses. In addition, given that—I think the crime is particular [sic] heinous insofar as the fact that the person that you helped escape was a double homicide inmate. I think that is something the Court must consider in determining your sentence. In the testimony that you've given today and your husband has given today there's been some testimony presented concerning possible mitigating circumstances in that imprisonment may be a hardship on your family and on your dependents. In addition, the Court should note that you did plead guilty . . . as charged in th[e] charging information without any type of agreement ahead of time. I do think that the fact that the person that you helped escape was a double homicide inmate is such a strong aggravating circumstance, your criminal history is so significant, the aggravating circumstances outweigh the mitigating circumstances . . . .

(Sent. Tr. 18-19). The trial court sentenced Long to seven years.

DECISION

Long asserts that the trial court erred in sentencing her. Specifically, she argues that the trial court failed to consider her cooperation with law enforcement as a mitigating circumstance. She also argues that her sentence is inappropriate.

1. Mitigating Circumstance

Long contends that the trial court abused its discretion in omitting her cooperation with law enforcement and willingness to continue to assist them in their investigation from consideration in its sentencing statement. We disagree.

A sentence that is within the statutory range is subject to review only for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218 (Ind. 2007). One way in which a trial court may abuse its discretion is if the sentencing statement "omits reasons for imposing a sentence that are clearly

supported by the record and advanced for consideration . . . ." *Id.* at 490-91. Under such circumstances, "remand for resentencing may be the appropriate remedy if we cannot say with confidence that the trial court would have imposed the same sentence had it properly considered reasons that enjoy support in the record." *Id.* at 491. However, the relative weight or value assignable to reasons properly found, or to those which should have been found, is not subject to review for abuse of discretion. *Id.*

Long initially denied any knowledge of Pender's escape when officers questioned her. The next day, Long did admit to helping Pender escape and agreed to cooperate with the police; however, she only extended this cooperation after the police became aware of her involvement. We therefore cannot say that Long's cooperation is clearly supported by the record. Thus, we find no abuse of discretion in failing to identify it as a mitigating circumstance.

2. Inappropriate Sentence

Long also asserts that her sentence is inappropriate because she "was merely one actor in Ms. Pender's escape plan"; she cooperated with law enforcement; and she pleaded guilty "less than two months after being charged[.]" Long's Br. at 6. We may revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B). It is the defendant's burden to "'persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.'" *Anglemyer*, 868 N.E.2d at 494 (quoting *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006)).

In determining whether a sentence is inappropriate, the advisory sentence "is the starting point the Legislature has selected as an appropriate sentence for the crime committed." *Childress*, 848 N.E.2d at 1081. The advisory sentence for a class C felony is four years. I.C. § 35-50-2-6. The potential maximum sentence is eight years. *Id.* Here, the trial court sentenced Long to seven years, one year less than the maximum sentence.

Regarding the nature of Long's offense, we find it to be particularly egregious as she aided the escape of a person who had been convicted of two murders. Furthermore, she was not "merely one actor" in this crime. Long's Br. at 6. Rather, she drove to the Facility, picked up Pender, drove her to Indianapolis, and provided her with money.

As to Long's character, she has a criminal history that includes at least two felonies and, by her own admission, twelve to fifteen other convictions. This reveals a blatant disregard for the law. Regarding her cooperation and guilty plea, these came after Pitler implicated her and she confessed to the police. There is nothing to suggest that her cooperation and plea agreement were anything but pragmatic decisions. We are not persuaded that her sentence is inappropriate.

Affirmed.

RILEY, J., and VAIDIK, J., concur.