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**IN THE
COURT OF APPEALS OF INDIANA**

NAPOLEON CAMARILLO,)

Appellant-Defendant,)

vs.)

No. 46A03-1009-CR-553

STATE OF INDIANA,)

Appellee-Plaintiff.)

APPEAL FROM THE LaPORTE CIRCUIT COURT
The Honorable Thomas Alevizos, Judge
Cause No. 46C01-0911-FA-604; 46C01-0910-FB-556

April 20, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Napoleon Camarillo appeals the nineteen-year sentence that was imposed after he pleaded guilty to Dealing in Cocaine, a class B felony.¹ Specifically, Camarillo argues that the trial court erred in failing to suspend a portion of his sentence to probation and that his sentence is inappropriate in light of the nature of the offense and his character. Concluding that the trial court did not err and that Camarillo's sentence is not inappropriate, we affirm the judgment of the trial court.

FACTS

In March 2004, Camarillo pleaded guilty to dealing in cocaine as a class B felony. The trial court sentenced him to ten years, with four years suspended. Following a probation violation in February 2009, the trial court ordered Camarillo to serve an additional two years in work release. On June 23, 2009, while still in work release, Camarillo sold .8 grams of cocaine to a confidential informant. The State charged Camarillo with dealing in cocaine as a class B felony and aiding, inducing or causing dealing in cocaine as a class B felony. In late 2009, the State charged Camarillo with dealing in cocaine as a class A felony under a separate cause number.

Camarillo agreed to plead guilty to dealing in cocaine as a class B felony, and the State agreed to dismiss the class B felony aiding, inducing or causing dealing in cocaine and the class A felony dealing in cocaine charges. The plea agreement further provided that sentencing would be left open to argument with a cap of twenty years. The State

¹ Ind. Code § 35-48-4-1(a).

recommended an eighteen-year executed sentence with two years suspended and served on probation to get Camarillo “reintegrated into society” Tr. p. 29.

The trial court found the following aggravating factors: Camarillo 1) has a history of criminal activity, including a prior conviction for dealing in cocaine; 2) was on work release when he committed this offense; and 3) has a history of violating the terms and conditions of his probation. The trial court also found that Camarillo refused to admit that he has a drug problem. The trial court found as mitigating factors that Camarillo pleaded guilty and accepted responsibility for his actions.

The trial court sentenced Camarillo to nineteen years of incarceration, with no time suspended. Camarillo appeals his sentence.

DISCUSSION AND DECISION

I. Abuse of Discretion

Camarillo first contends that the trial court erred in failing to suspend a portion of his nineteen-year sentence to probation to facilitate his reintegration into society as recommended by the State. According to Camarillo, “this reintegration was necessary given his long-term struggle with alcohol and drugs.” Appellant’s Br. p. 3.

Sentencing decisions rest within the sound discretion of the trial court. Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on reh’g, 875 N.E.2d 218. Where a trial court imposes a sentence for a felony offense, the court is required to issue a sentencing statement that includes a reasonably detailed recitation of the trial court’s reasons for the sentence imposed. Id. A trial court abuses its discretion if it fails to enter

a sentencing statement. Id. However, if the trial court has abused its discretion, we will remand for resentencing only 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. Also, under the new statutory scheme, 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. On appeal, we will review both the written and oral sentencing statements to discern the findings of the trial court. Corbett v. State, 764 N.E.2d 622, 631 (Ind. 2002).

Camarillo's argument that suspension was necessary to reintegrate him into society because of his long-term struggle with substance abuse is perplexing, inasmuch as the trial court found that he refused to admit he even had a drug problem. Further, the trial court is not bound to follow the State's oral sentencing recommendation where, as here, the guilty plea agreement does not include a specific sentence. See Hedger v. State, 824 N.E.2d 417, 420 (Ind. Ct. App. 2005). As a result, we cannot say that the trial court abused its discretion when it did not suspend a portion of Camarillo's sentence.

II. Inappropriate Sentence

Camarillo also claims that his sentence is inappropriate in light of the nature of the offense and his character pursuant to Indiana Appellate Rule 7(B). In reviewing a Rule 7(B) appropriateness challenge, we defer to the trial court. 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).

With regard to the nature of the offense, Camarillo sold cocaine to a confidential informant while he was on work release for a prior conviction for dealing in cocaine. With regard to Camarillo's character, he also has a history of violating the terms and conditions of his probation. His prior contacts with the law have not caused him to reform himself, and it reflects poorly on his character that he has continued to commit the same crimes despite opportunities to reform. When considering the nature of Camarillo's offense and his character, we conclude that he has failed to persuade us that the nineteen-year sentence is inappropriate, and we affirm the decision of the trial court.

The judgment of the trial court is affirmed.

MAY, J., and BRADFORD, J., concur.