Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

MICHAEL B. TROEMEL
Lafayette, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

GEORGE P. SHERMAN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

CASEY SEYFRIED,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A02-0610-CR-930
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Donald C. Johnson, Judge
Cause No. 79D01-0003-CF-24

August 3, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Casey A. Seyfried (Seyfried), appeals his conviction for arson, a Class A felony, Ind. Code § 35-43-1-1(a)(3).

We affirm.

ISSUE

Seyfried raises two issues on appeal, which we consolidate and restate as following single issue: Whether the trial court appropriately sentenced Seyfried in light of the nature of his offense and his character.

FACTS AND PROCEDURAL HISTORY

On October 15, 1999, Seyfried used gasoline and a lighter to set fire to the Lafayette Tire Company. While fighting the fire, firefighter Joseph Long (Long) was injured. Long suffered from a fractured femur that required skin grafts, knee surgery, the placement and re-placement of a pin in his hip, and caused permanent scarring. The injury was due to a malfunction when the fire hose was deployed. During the course of the investigation, the police interviewed Seyfried. He admitted his motive was revenge. Seyfried bought a vehicle from the owner of the Tire Company, which he believed was stolen and damaged.

On March 1, 2000, the State filed an Information charging Seyfried with Count I, arson, a Class B felony, I.C. § 35-43-1-1(a)(3) and Count II, criminal trespass, a Class A misdemeanor, I.C. § 35-43-2-2(a)(1). On March 24, 2000, the State filed an additional Information charging Seyfried with Count III, arson, a Class A felony, I.C. § 35-43-1-1(a)(3). On August 10, 2000, Seyfried plead guilty to Count III, arson, and the State

agreed to dismiss Counts I and II and all pending charges under two separate cause numbers. Pursuant to the plea agreement, the trial court was free to impose whatever sentence it deemed appropriate. On November 10, 2000, the trial court sentenced Seyfried to forty years imprisonment, with ten years suspended and ten years on probation.

On December 7, 2000, Seyfried filed a Petition for Post-Conviction Relief. Later that month he amended his Petition. Then, on June 9, 2003, he filed a Motion to Withdraw his Petition for Post-Conviction Relief. On November 5, 2004 and December 9, 2005, Seyfried filed Motions for Sentence Modification. On July 12, 2006, he filed a Motion for Correction of Erroneous Sentence; that Motion was subsequently denied. Then, after filing a Notice of Appeal, on November 2, 2006, Seyfried filed a Motion requesting permission to file a belated notice of appeal. His motion was granted.

Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Seyfried claims he was improperly sentenced. Specifically, he asserts the trial court (1) improperly recognized aggravators that were not found beyond a reasonable doubt by a jury pursuant to *Blakely v. Washington*, 542 U.S. 296, (2004), *reh'g denied*; and (2) pronounced a sentence that was inappropriate in light of the nature of the offense and his character. As a result, Seyfried contends the trial court erred when it aggravated his sentence.

However, "*Blakely* is not retroactive for Post-Conviction Rule 2 belated appeals." *Gutermuth v. State*, 868 N.E.2d 427, 432 (Ind. 2007). Rather, "[a] belated appeal is

treated as though it was filed within the time period for a timely appeal[,] but is subject to the law that would have governed a timely appeal." *Id.* at 433. Consequently, assuming the trial court entered a reasonably detailed sentencing statement explaining its reasons for a given sentence that is supported by the record, we may only review Seyfried's sentence under Indiana Appellate Rule 7(B), which provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we] find that the sentence is inappropriate in light of the nature of the offense and the character of the offender." *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007).

Seyfried argues that his lack of intent to harm anyone and background as a child in need of services does not warrant an enhanced sentence. At the time of Seyfried's conviction and sentence a Class A felony carried, "a fixed term of thirty (30) years, with not more than twenty (20) years added for aggravating circumstances or not more than ten (10) years subtracted for mitigating circumstances." I.C. § 35-50-2-4 (1995). With respect to the nature of Seyfried's offense, the fact that a firefighter responding to the call suffered injuries was taken into account by increasing the offense to a Class A felony, by dismissing Count I, arson as a Class B felony. *See* I.C. § 35-43-1-1(a)(3). Otherwise, we find nothing in the record with respect to the nature of this crime that supports an enhanced sentence.

Conversely, with respect to Seyfried's character, we find the trial court's sentence appropriate. Seyfried admitted his motive for this offense was revenge. Additionally, Seyfried's cousin told police Seyfried was bragging about how he set the fire and showed

no remorse for starting the fire or for the injuries suffered by Long. As a result, we are not persuaded the forty-year sentence imposed by the trial court is inappropriate.

CONCLUSION

Based on the foregoing, we find with respect to the nature of the offense and Seyfried's character, the forty-year sentence imposed by the trial court is not inappropriate.

Affirmed.

NAJAM, J., and BARNES, J., concur.