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IN THE
COURT OF APPEALS OF INDIANA

KIMBERLY R. COPE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 29A02-0704-CR-309
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HAMILTON SUPERIOR COURT
The Honorable Steven R. Nation, Judge
Cause No. 29D01-0602-FD-19

October 19, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Defendant, Kimberly Cope, appeals following her guilty plea and conviction for Check Fraud as a Class D felony.[1] Cope's sole claim upon appeal is that her sentence of two years to be served in the Department of Correction was inappropriate. We affirm.

FACTS

On February 8, 2006, the State filed a charging information alleging Cope had committed check fraud on September 23, 2005 by paying for clothing from the store Just Kid'N Around with what she knew would be a dishonored check. On September 7, 2006, Cope entered into a plea agreement with the State whereby she agreed to plead guilty to the check fraud charge, and the State agreed to request a sentence no greater than two years executed, with the sentence to run consecutive to her sentences on two prior counts. The parties additionally agreed to a civil judgment of $173.63, the amount of the dishonored check, in favor of Just Kid'N Around. At the January 25, 2007 sentencing hearing, the trial court accepted Cope's plea and entered judgment of conviction. The trial court then sentenced Cope to two years executed in the Department of Correction. This appeal follows.

DISCUSSION AND DECISION

In arguing that her sentence was inappropriate, Cope points to her substance abuse problem and the fact that the instant offense involved only $173.63, which according to Cope, does not justify a two-year executed sentence.

[1] Ind. Code § 35-43-5-12 (b)(1)(A) (2005).

Article VII, 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) (quoting *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006) (emphasis and internal quotations omitted)). Such appellate authority is implemented through Indiana Appellate Rule 7(B), which provides that 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." We exercise deference to a trial court's sentencing decision, both because Rule 7(B) requires that we give "due consideration" to that decision and because we recognize the unique perspective a trial court has when making sentencing decisions. *Stewart v. State*, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). It is the defendant's burden to demonstrate that his sentence is inappropriate. *Childress*, 848 N.E.2d at 1080.

We first observe that the advisory sentence for a Class D felony is one and one-half years. *See* Ind. Code § 35-50-2-7 (2005). Cope's sentence, therefore, is only six months in excess of the sentence which the legislature deemed advisable for routine Class D felony offenses.

As the trial court observed, Cope has a remarkably lengthy criminal history which includes eight prior convictions for check deception, two felony convictions for theft, and one misdemeanor conviction for criminal conversion. Cope, who has been placed on probation several times, has had multiple probation violations. Cope's criminal history reflects negatively upon her character, regardless of her claimed substance abuse

problem. Further, the instant crime is precisely the same type of property offense as the many property offenses in Cope's criminal history, indicating her persistent disregard for the law and others' property. We are unpersuaded that the amount of the check, $173.63, somehow lessens Cope's offense. Indeed, as victim Leeann Christman testified, $173.63 represented a significant purchase at Just Kid'N Around. Given Cope's criminal history and her instant offense repeating such history, we are convinced that Cope's two-year executed sentence for Class D felony check fraud is not inappropriate.

The judgment of the trial court is affirmed.

NAJAM, J., and MATHIAS, J., concur.