

Case Summary

Rachael Robertson appeals her six-year sentence for Conspiracy to Commit Robbery, as a Class B felony.¹ We affirm.

Issue

On appeal, Robertson raises the sole issue of whether her sentence is inappropriate.

Facts and Procedural History

On November 10, 2006, Robertson and Rosendo Loomies entered a record store in Marion County and discussed plans to rob it. They agreed that a gun would be used in the robbery. Later that day, they re-entered the store. Loomies forced a store employee to the back of the store, at gunpoint, and confined her with straps, while Robertson took money from the cash register. They left the store and a man named Pedro drove them home.

Initially, the State charged Robertson with Robbery, as a Class B felony,² and Criminal Confinement, as a Class B felony.³ The State later amended its Information to add the charge of Conspiracy to Commit Robbery. Robertson and the State entered a plea agreement whereby the first two counts were dismissed and Robertson agreed to plead guilty to the conspiracy charge. The agreement provided for a maximum, executed term of imprisonment of eight years.

The trial court accepted the plea agreement and imposed the minimum sentence of six

¹ Ind. Code § 35-41-5-2.

² Ind. Code § 35-42-5-1.

³ Ind. Code § 35-42-3-3(b)(2).

years. See Ind. Code § 35-50-2-5. Because of Robertson’s conviction, her prior felony in California, and the fact that she committed the instant offense while on probation for the California felony, the trial court ordered the sentence to be fully executed and to run consecutively to the sentence imposed for the California felony. See Ind. Code §§ 35-50-2-2(b)(1) (requiring the execution of the minimum sentence for a person committing a Class B felony with a prior unrelated felony conviction) and 35-50-1-2(d) (mandating consecutive sentences where the person commits a crime before being discharged from probation for a prior crime). Finding several mitigating circumstances, including the fact that Robertson was eight months pregnant, the trial court sentenced her to a six-year term of imprisonment, to be fully executed and to run consecutively to the California felony.

Robertson now appeals.

Discussion and Decision

Robertson asks this Court to exercise an independent review of her sentence. Under Indiana Appellate Rule 7(B), this “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.”

In April of 2006, Robertson pled guilty in California to felonious Burglary. At the time of the instant offense, she was on probation for that crime.⁴

While testifying at the sentencing hearing to questions from her attorney, Robertson acknowledged that the minimum sentence was six years and that it was not suspendable. Her

attorney reiterated this point, adding that the sentence for the instant offense must run consecutively to execution of the previously suspended term of imprisonment in California. Thus, the trial court ordered the least severe sentence authorized by statute. We have no authority to order a sentence less punitive than that which Robertson has already received.

Robertson's sentence was not inappropriate.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.

⁴ During the hearing on the plea agreement, Robertson told the trial court that she did not have any prior felonies and that she was not on probation at the time of the instant offense.