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IN THE
COURT OF APPEALS OF INDIANA

DAVID ALLEN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0705-CR-412
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Nancy Broyles, Commissioner
Cause No. 49G05-0608-FC-160736

DECEMBER 5, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant David Allen appeals his conviction by jury of theft as a Class C felony, his adjudication as an habitual offender, and his sentence thereon. We affirm.

ISSUES

Allen raises two issues for our review:

1. Whether there is sufficient evidence to support his conviction; and
2. Whether his sentence is appropriate.

FACTS AND PROCEDURAL HISTORY

On August 25, 2006, Allen went to Region's National Bank in Indianapolis, approached the teller, lifted the front of his shirt and indicated that he had a gun under it, and told the teller that he needed money. He later admitted to the police that he had taken the money. He was convicted by jury of Class C felony theft and adjudicated to be a habitual offender. The trial court sentenced him to seven years for the theft conviction enhanced by six years for being a habitual offender, for a thirteen-year executed sentence. Allen appeals his conviction and sentence.

DISCUSSION AND DECISION

I. Sufficiency of the Evidence

Our standard of review for sufficiency of the evidence is well settled. *Cline v. State*, 860 N.E.2d 647, 649 (Ind. Ct. App. 2007). We will not reweigh the evidence or judge the credibility of the witnesses. *Id.* We consider only the evidence and reasonable

inferences supporting the verdict. *Id.* Our task is to determine whether there is substantial evidence of probative value from which a reasonable jury could find the defendant guilty beyond a reasonable doubt. *Id.* Indiana Code Section 35-42-5-1 provides that a person who knowingly or intentionally takes property from another person by putting any person in fear commits robbery as a Class C felony.

Allen argues that there is insufficient evidence to support his robbery conviction. Specifically, his sole contention is that there is insufficient evidence that he knowingly or intentionally placed the teller in fear as required by Ind. Code § 35-42-5-1.

Daniel v. State, 526 N.E.2d 1157 (Ind. 1988), is dispositive. There, Daniel robbed a Village Pantry. At trial, the cashier testified that she was scared during the robbery. On appeal, Daniel, like Allen, argued that the State failed to establish that he took money from the cashier by putting her in fear as required by the statute. Our supreme court pointed out that the cashier testified that she was scared. The court further found that based upon this testimony, the jury could have reasonably concluded that Daniel took the Village Pantry money from the cashier by placing her in fear. *Id.* at 1161.

Here, as in *Daniel*, the teller testified she was scared. Based upon this testimony, the jury could have reasonably concluded that Allen took the money by placing the teller in fear. This evidence is sufficient to support Allen's conviction.

II. Inappropriate Sentence

Allen also argues that his sentence is inappropriate. When reviewing a sentence imposed by the trial court, we "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." Ind. Appellate Rule 7(b).

Here, with regard to the character of the offender, Allen has a criminal history that spans fifteen years and includes the following felony convictions: 1) burglary as a Class C felony; 2) two counts of auto theft as Class D felonies; and 3) bribery. Allen also has misdemeanor convictions for: 1) possession of marijuana; 2) criminal trespass; 3) disorderly conduct; 4) operating a vehicle without a license; and 5) driving while his license was suspended. Lastly, Allen had his probation revoked in 1994. Allen's prior contacts with the law have not caused him to reform himself.

With regard to the nature of the offense, Allen walked into a bank, indicated that he had a gun, and took money from the teller. Allen's prior felony convictions for burglary, bribery, and auto theft as well as his misdemeanor convictions for criminal trespass, disorderly conduct, operating a vehicle without a license, possession of marijuana, and driving while his license was suspended show a pattern of crimes indicating a disregard for other persons and property as well as an escalation in the threat of violence to those persons. *See Ruiz v. State*, 818 N.E.2d 927, 929 (Ind. 2004) (holding that the significance of prior criminal history varies based on the gravity, nature, and number of prior offenses as they relate to the current offense).

Based upon our review of the evidence, we see nothing in the character of this offender or in the nature of this offense that would suggest that Allen's sentence is inappropriate.

CONCLUSION

There is sufficient evidence to support Allen's conviction and his sentence is not inappropriate.

Affirmed.

DARDEN, J., and CRONE, J., concur.