

MEMORANDUM DECISION

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

Denise L. Turner
DTurner Legal LLC
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General
Catherine E. Brizzi
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Leslie J. Becraft,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

July 29, 2022

Court of Appeals Case No.
21A-CR-2559

Appeal from the Shelby Superior
Court

The Honorable R. Kent Apsley,
Judge

Trial Court Cause No.
73D01-2009-F2-15

Crone, Judge.

Case Summary

- [1] Leslie J. Becraft appeals the thirty-three-year sentence imposed by the trial court following his convictions for level 2 felony dealing methamphetamine and level 6 felony unlawful possession of a syringe and his admission to being a habitual offender. Becraft contends that his sentence is inappropriate in light of the nature of his offenses and his character. Concluding that Becraft has not met his burden to show that his sentence is inappropriate, we affirm.

Facts and Procedural History

- [2] In September 2020, officers with the Shelbyville Police Department executed a no-knock search warrant at a house where Becraft was residing. When officers entered the house, they observed Becraft sitting alone in the middle of a couch inside the living room. Becraft ran to another room. Officers employed a flash-bang device, causing Becraft to fall down. Officers removed Becraft and the other occupants from the house and performed a patdown search for weapons. During the patdown, officers found a capped syringe in Becraft's pocket. Officers also searched the house and found approximately \$500 on the couch where Becraft had been sitting. Before he was transported to jail, Becraft asked for the money and informed the officers that the cash belonged to him. Under one of the couch cushions, officers found a bag containing 10.82 grams of methamphetamine. Additional bags of methamphetamine containing 1.86, 2.67, and .58 grams respectively, and a broken methamphetamine pipe were found on a floor vent across from the couch. In Becraft's bedroom, officers

located more syringes. A digital scale and marijuana pipes were found in another bedroom.

- [3] Officers confiscated Becraft's phone and found a text message from him that stated in pertinent part, "I want to get a lill [sic] cash off you for this I gott [sic] left I think its bout sixteen grams...." State's Ex. 31. Moreover, DNA analysis of a buccal swab obtained from Becraft revealed that two of the bags of methamphetamine found in the residence contained "very strong support for the inclusion" of Becraft's DNA. Tr. Vol. 2 at 152.
- [4] The State charged Becraft with level 2 felony dealing in methamphetamine, level 3 felony possession of methamphetamine, and level 6 felony unlawful possession of a syringe. The State further alleged that he was a habitual offender. Following a trial, the jury found Becraft guilty as charged, and Becraft admitted to being a habitual offender. The trial court subsequently vacated the level 3 felony possession conviction and entered judgment of conviction on the level 2 and the level 6 felonies. The trial court sentenced Becraft to twenty-three years for the level 2 felony and two years for the level 6 felony, to be served concurrently. The court enhanced the level 2 felony by ten years based on the habitual offender finding resulting in an aggregate sentence of thirty-three years, with twenty-eight years executed and five years suspended to probation. This appeal ensued.

Discussion and Decision

[5] Becraft asks us to revise his sentence pursuant to Indiana Appellate Rule 7(B), which states, “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.” When reviewing a sentence, our principal role is to leaven the outliers rather than necessarily achieve what is perceived as the correct result in each case. *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). “We do not look to determine if the sentence was appropriate; instead we look to make sure the sentence was not inappropriate.” *Conley v. State*, 972 N.E.2d 864, 876 (Ind. 2012). “[S]entencing is principally a discretionary function in which the trial court’s judgment should receive considerable deference.” *Cardwell*, 895 N.E.2d at 1222. “Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense (such as accompanied by restraint, regard, and lack of brutality) and the defendant’s character (such as substantial virtuous traits or persistent examples of good character).” *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015). As we assess the nature of the offenses and the character of the offender, “we may look to any factors appearing in the record.” *Boling v. State*, 982 N.E.2d 1055, 1060 (Ind. Ct. App. 2013). The appellant bears the burden of persuading this Court that his sentence meets the inappropriateness standard. *Bowman v. State*, 51 N.E.3d 1174, 1181 (Ind. 2016).

[6] Regarding the nature of the offenses, we observe that “the advisory sentence is the starting point the Legislature selected as appropriate for the crime committed.” *Pierce v. State*, 949 N.E.2d 349, 352 (Ind. 2011). The sentencing range for a level 2 felony is between ten and thirty years, with an advisory sentence of seventeen and one-half years. Ind. Code § 35-50-2-4.5. The sentencing range for a level 6 felony is between six months and two and one-half years, with the advisory sentence being one year. Ind. Code § 35-50-2-7. The court shall sentence a person found to be a habitual offender to an additional fixed term between six and twenty years for a person convicted of a level 2 felony. Ind. Code § 35-50-2-8(i)(1). While Becraft’s individual sentences are above the advisory sentences, his aggregate sentence is still well below the fifty-three-year maximum sentence that he could have received.

[7] When reviewing the nature of the offense, this Court considers the “details and circumstances surrounding the offense and the defendant’s participation therein.” *Morris v. State*, 114 N.E.3d 531, 539 (Ind. Ct. App. 2018), *trans. denied* (2019). Here, while he was out on bond under two separate drug-related causes, Becraft committed the current crimes. Becraft concentrates only on his level 2 felony dealing conviction and argues that the weight of methamphetamine he possessed with intent to deliver “barely met the [ten-gram] threshold for the crime.” Appellant’s Br. at 8; *see* Ind. Code § 35-48-4-1.1(e) (providing that offense of dealing in methamphetamine is a level 2 felony “if the amount of the drug involved is at least ten (10) grams.”). However, Becraft misstates that he was found in possession of only 10.82 grams of methamphetamine. Although

one bag found in his residence indeed contained 10.82 grams, another 5.11 grams of methamphetamine in three additional bags were also found. Becraft points to no details or circumstances surrounding his offenses to persuade us that a sentence reduction is warranted.

[8] Turning to an assessment of Becraft's character, "[t]he character of the offender is found in what we learn of the offender's life and conduct." *Perry v. State*, 78 N.E.3d 1, 13 (Ind. Ct. App. 2017). This assessment includes consideration of the defendant's criminal history. *Johnson v. State*, 986 N.E.2d 852, 857 (Ind. Ct. App. 2013). Becraft has a lengthy and extensive criminal history including both juvenile adjudications and adult convictions. As an adult, Becraft has amassed eleven felony convictions, including two for dealing. As already noted, Becraft was out on bond under two separate felony drug-related causes when he was arrested for the current offenses. Becraft's criminal history demonstrates his clear and continuing disregard for the rule of law, which reflects extremely negatively on his character. While we are not unsympathetic to Becraft's struggle with drug addiction, he provides us with no persistent examples of his good character to overcome our deference to the trial court on choosing an appropriate sentence.

[9] In sum, Becraft has not met his burden to demonstrate that the sentence imposed by the trial court is inappropriate in light of the nature of the offenses or his character. Therefore, we affirm.

[10] Affirmed.

Vaidik, J., and Altice, J., concur.