

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Freddie Crandall, III,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

June 30, 2023

Court of Appeals Case No.  
23A-CR-328

Appeal from the Tippecanoe  
Superior Court

The Honorable Steven P. Meyer,  
Judge

Trial Court Cause No.  
79D02-2207-F5-111

**Memorandum Decision by Judge Brown**  
Judge Crone and Senior Judge Robb concur.

**Brown, Judge.**

[1] Freddie Crandall, III, appeals his sentence for operating a vehicle as an habitual traffic violator as a level 6 felony and resisting law enforcement as a class A misdemeanor and asserts his sentence is inappropriate. We affirm.

### ***Facts and Procedural History***

[2] On August 7, 2021, Crandall operated a motor vehicle after his driving privileges had been suspended. A police officer pulled him over, and Crandall ran from the officer. The officer told him to stop, and Crandall continued to run.

[3] On July 11, 2022, the State charged Crandall with: Count I, operating a motor vehicle after forfeiture of license for life as a level 5 felony; Count II, resisting law enforcement as a class A misdemeanor; and Count III, possession of a controlled substance as a class A misdemeanor. On January 6, 2023, the State filed a motion to add Count IV, operating a vehicle as an habitual traffic violator as a level 6 felony. That same day, Crandall and the State filed a plea agreement pursuant to which Crandall agreed to plead guilty to Count II, resisting law enforcement as a class A misdemeanor, and Count IV, operating a vehicle as an habitual traffic violator as a level 6 felony, and the State agreed to dismiss the remaining counts.

[4] That same day, the court held a guilty plea hearing and accepted the plea agreement. On February 1, 2023, the court held a sentencing hearing. Crandall testified that he worked for a program at the “north end community center” and “[t]hrough goodwill industries” before he was incarcerated. Transcript Volume

II at 25. The court stated that Crandall had a “terrible criminal history” that included “repetitive conduct.” *Id.* at 31.

[5] In its sentencing order, the court found the following aggravating factors: Crandall’s criminal history, his seventeen petitions to revoke probation filed against him with nine being found to be true; his one work release violation; his repetitive conduct; his failure to appear in this case; and his two different habitual offender charges. The court found Crandall’s guilty plea “diminished by the benefits” of the plea agreement and his substance abuse issues “diminished by prior opportunities for treatment” as mitigating factors. Appellant’s Appendix Volume II at 52. It found the aggravating factors outweighed the mitigating factors and sentenced him to two years for Count IV, operating a vehicle as an habitual traffic violator as a level 6 felony, and a concurrent sentence of one year for Count II, resisting law enforcement as a class A misdemeanor, for an aggregate sentence of two years. It ordered that Crandall serve one year and 180 days at the Department of Correction and suspended 185 days of the sentence to supervised probation.

### ***Discussion***

[6] Crandall cites to the probable cause affidavit and acknowledges that he stated he fled from the traffic stop because he did not have a license and was in possession of spice, but asserts that he was not driving the vehicle in an erratic manner, he was not intoxicated, and he did not evade the police with the motor vehicle. He argues he was employed before his incarceration and that “[t]he

trial courts [sic] diminishing of [his] employment is an indicator that the sentence imposed was inappropriate.” Appellant’s Brief at 12.

[7] Ind. Appellate Rule 7(B) 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.” Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). “[W]hether we regard a sentence as appropriate at the end of the day turns on our sense of the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case.” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). “[A]ppellate review should focus on the forest—the aggregate sentence—rather than the trees—consecutive or concurrent, number of counts, or length of the sentence on any individual count.” *Id.*

[8] Ind. Code § 35-50-2-7 provides that a person who commits a level 6 felony shall be imprisoned for a fixed term of between six months and two and one-half years with the advisory sentence being one year. Ind. Code § 35-50-3-2 provides that a person who commits a class A misdemeanor shall be imprisoned for a fixed term of not more than one year.

[9] Our review of the nature of the offenses reveals that Crandall operated a motor vehicle after his driving privileges had been suspended. A police officer pulled

him over, and Crandall ran from the officer. The officer told him to stop, and Crandall continued to run.

[10] Our review of the character of the offender reveals that Crandall pled guilty to Counts II and IV and the court dismissed the remaining counts. The presentence investigation report (“PSI”) indicates that Crandall failed to appear and a warrant was issued on July 29, 2022, he failed to appear and a motion to revoke bond was requested on October 14, 2022, and a warrant was issued and served.

[11] As an adult, Crandall has convictions for: operating a vehicle while intoxicated as a class A misdemeanor in 1987; leaving the scene of an accident as a class C misdemeanor in 1988; carrying a handgun without a permit as a class A misdemeanor and operating a vehicle while intoxicated as a class D felony in 1990; neglect and operating a vehicle as an habitual traffic violator as class D felonies in 1991; three counts of non-support of a dependent as class A misdemeanors in 1993; resisting law enforcement as a class A misdemeanor in 1994; possession of marijuana in 1998; resisting law enforcement as a class A misdemeanor in 2003; operating a motor vehicle after lifetime forfeiture of driving privileges as a class C felony, possession of a Schedule I, II, III, or IV controlled substance as a class D felony, possession of marijuana/hash oil/hashish as a class A misdemeanor, resisting law enforcement as a class A misdemeanor, and an habitual substance offender enhancement in 2007; resisting law enforcement as a class A misdemeanor in 2009; possession of marijuana as a class D felony in 2012; and possession of a synthetic drug or

lookalike substance as a class A misdemeanor in 2019. The PSI indicates that Crandall “had 17 Petitions to Revoke Probation filed against him, with at least nine (9) having been found true.” Appellant’s Appendix Volume II at 32. It asserts that Crandall has had one “Work Release Violation filed against him and granted” and he “has been previously unsuccessfully terminated from probation.” *Id.*

[12] The PSI indicates that Crandall reported he was employed through “the SC/SEP Program via Goodwill in Lafayette, Indiana working part time as a janitor from February or March 2022 until October 2022” and he denied having any employment history for the last three or four years. *Id.* at 33. The PSI indicates Crandall admitted to using: marijuana three to four times daily between the ages of 15 and 44; marijuana one to two times daily between the ages of 45 and 55; synthetic marijuana/spice twice daily between the ages of 50 and 53; and OxyContin between his “mid 30s and early 40s.” *Id.* at 35. With respect to substance abuse treatment, the PSI indicates Crandall was ordered to complete New Directions in 1987 and 1994, he provided the court a letter showing completion of a twenty-one day program with Wabash Valley on an inpatient basis in November 1994 and participated in an outpatient counseling program in 1994, he was ordered to complete an alcohol/drug counseling program as recommended by ASAP in 1998, he was ordered to complete the Home With Hope Program or Trinity Mission Program in 2007, he was ordered to complete an ASI evaluation and all recommended counseling in 2009, and the court modified his sentence to include complying with all

recommendations of River Bend Hospital and complete said counseling in 2012. The PSI states that Crandall's overall risk assessment score using the Indiana Risk Assessment System places him in the moderate risk to reoffend category.

[13] After due consideration and in light of Crandall's criminal history, we conclude that Crandall has not sustained his burden of establishing that his aggregate sentence of two years with 185 days suspended to supervised probation is inappropriate in light of the nature of the offenses and his character.

[14] For the foregoing reasons, we affirm Crandall's sentence.

[15] Affirmed.

Crone, J., and Robb, Sr.J., concur.