

## 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.



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## IN THE COURT OF APPEALS OF INDIANA

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Shantell Rene Williams,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

February 25, 2021

Court of Appeals Case No.  
20A-CR-1762

Appeal from the Hamilton  
Superior Court

The Honorable Gail Bardach,  
Judge

Trial Court Cause No.  
29D06-1907-F6-5303

**Brown, Judge.**

- [1] Shantell Rene Williams appeals her sentence for two counts of theft as level 6 felonies and asserts her sentence is inappropriate. We affirm.

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

- [2] On July 1, 2019, Williams and two others entered a Torrid retail store in Hamilton County, were observed placing merchandise in their bags, and exited the store without paying for the merchandise, which activated the store's security alarm. When the alarm activated, Williams "kind of sprinted out." Transcript Volume II at 90. That same day, Williams and the others entered a DSW retail store. A store manager observed Williams exit the store with a bag and then reenter the store a few minutes later with the bag empty. The manager stopped to speak with a customer, and Williams and the others exited the building. After they exited, store personnel discovered a couple of empty shoe boxes. Carmel police officers stopped the vehicle in which Williams and the others were traveling and discovered merchandise from Torrid and DSW. The recovered DSW merchandise had a value of \$523, and the recovered Torrid merchandise had a value of \$591.
- [3] The State charged Williams with two counts of theft as class A misdemeanors and two counts of theft having a prior unrelated conviction as level 6 felonies. A jury found Williams guilty of two counts of theft as class A misdemeanors, and Williams pled guilty to having a prior conviction. The court entered judgment of conviction on two counts of theft as level 6 felonies. The court found the aggravating circumstances included Williams's criminal history and that she was on probation for the same type of offense at the time she

committed the instant offenses, and it found no mitigating circumstances. With respect to one of her convictions, the court sentenced Williams to 730 days at the Indiana Department of Correction. With respect to the other conviction, it sentenced her to 730 days with 365 days to be executed at the Hamilton County Community Corrections in the residential work release facility and 365 days suspended to probation. It also ordered the sentences served consecutively.

### *Discussion*

- [4] Williams claims her sentence is inappropriate. She argues that, other than her conviction for theft in 2019, her prior convictions occurred over ten years ago. She argues she maintained steady employment prior to her arrest, obtained a commercial driver's license, and is financially responsible. She asserts no one was harmed or placed in danger.
- [5] 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).
- [6] 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.

- [7] Our review of the nature of the offense reveals that Williams together with two others entered Torrid and DSW retail stores and exited the stores with merchandise worth over a thousand dollars for which she did not pay.
- [8] Our review of the character of the offender reveals that, according to the presentence investigation report (“PSI”) completed on August 31, 2020, Williams reported that she has earned her Commercial Driver's License and is currently working toward a Class A Commercial Driver’s License. She reported working for a construction and trucking company as a dumpster truck driver since August 2019 and reported prior employment with the Marion County Health Department for ten years and a staffing company for six years. The PSI indicates Williams was born in December 1976 and has juvenile adjudications for acts of truancy in 1991, resisting law enforcement in 1993, and conversion in June 1994. Her adult criminal history includes theft or receiving stolen property as a class D felony in 1995 for which she was ordered to stay away from Lazarus Stores in Marion County; theft or receiving stolen property as a class D felony in 1998; carrying a handgun without a license as a class C felony in 2007; resisting law enforcement as a class D felony in 2008; and theft as a level 6 felony in 2019 for an offense committed in February 2018 for which she was ordered to stay away from Dick’s Sporting Goods in Marion County and for which she was sentenced to 365 days with 361 days suspended to probation. The PSI also indicates that Williams’s probation was revoked in 1996 and 2008 and that she was on probation when she committed the instant offenses.

[9] After due consideration, we conclude that Williams has not sustained her burden of establishing that her sentence is inappropriate in light of the nature of the offenses and her character.

[10] For the foregoing reasons, we affirm Williams's sentence.

[11] Affirmed.

Vaidik, J., and Pyle, J., concur.