

## 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

Theodore J. Minch  
Sovich Minch, LLP  
Indianapolis, Indiana

### ATTORNEYS FOR APPELLEE

Theodore E. Rokita  
Attorney General of Indiana  
  
Megan M. Smith  
Deputy Attorney General  
Indianapolis, Indiana

---

## IN THE COURT OF APPEALS OF INDIANA

---

Angela Michelle Hood,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

September 22, 2021

Court of Appeals Case No.  
21A-CR-56

Appeal from the Shelby Superior  
Court

The Honorable David N. Riggins,  
Judge

Trial Court Cause No.  
73D02-1906-F3-9

### Shepard, Senior Judge.

- [1] Angela Michelle Hood appeals the sentence imposed by the trial court following her guilty plea. She asks the Court to use its authority under the Indiana Constitution to revise her sentence. By contrast, the State argues Hood waived her right to appeal her sentence. We agree with the State and affirm.

## Facts and Procedural History

- [2] On June 4, 2019, several officers from the Shelbyville Police Department were looking for Hood, who was on probation. They found her in a motel room with her boyfriend. The officers requested and received permission to search their room. They opened a zippered case on a nightstand and found a substance that field-tested positive for methamphetamine, another substance that appeared to be heroin, and a third substance that appeared to be spice, a synthetic drug. The officers also found a used syringe and two digital scales.
- [3] In addition, the officers found a mobile phone, which Hood's boyfriend admitted was his. He agreed to a search of the phone. The officers looked at a messaging app and found discussions among Hood, her boyfriend, and others about narcotics sales. The officers arrested Hood and the boyfriend.
- [4] On June 5, 2019, the State charged Hood with dealing in methamphetamine, a Level 4 felony; possession of methamphetamine, a Level 5 felony; possession of a narcotic drug, a Level 6 felony; and unlawful possession of a syringe, a Level 6 felony.
- [5] Hood was released on bond. As the case progressed, Hood failed to appear for a pretrial hearing, and the trial court issued a warrant for her arrest. She was later arrested on new charges, as well as the warrant.
- [6] The State and Hood executed a plea agreement, in which Hood agreed to plead guilty to dealing in meth as a Level 5 felony, as a lesser included offense of the Level 4 dealing charge. In exchange, the State agreed to dismiss the other

charges and further agreed that Hood’s sentence would be capped at four years. The State also promised to dismiss another pending case against Hood. The plea agreement also provided: “[t]he defendant waives any right to appellate review of his/her sentence . . . .” Appellant’s App. Vol. II, p. 34. The agreement further stated:

The defendant hereby waives the right to appeal any sentence imposed by the Court, under any standard of review, including but not limited to, an abuse of discretion standard and the appropriateness of the sentence under Indiana Appellate Rule 7(B), so long as the Court sentences the defendant within the terms of the plea agreement.

*Id.* at 35.

[7] During an August 17, 2020 hearing, Hood’s counsel explained to the trial court that the parties were finalizing the plea agreement. Counsel stated that under the agreement, Hood would plead guilty to a Level 5 felony, and in return “she’d receive a sentence of a cap of four on total time . . . .” Tr. Vol. 2, p. 4.

[8] Next, during a September 30, 2020 guilty plea hearing, the prosecutor reiterated that Hood would receive a capped sentence of four years in exchange for pleading guilty to dealing in a controlled substance as a Level 5 felony. The trial court asked the parties, “It’s a cap of four years of a total sentence. Does that mean that I cannot impose anything more than four years?” *Id.* at 11. Hood’s counsel told the court that the four-year cap included “placement plus probation.” *Id.* The prosecutor agreed.

- [9] Next, the court informed Hood that she was waiving a number of rights by pleading guilty, including “the right to appeal any conviction entered against you as well as any sentence imposed upon you.” *Id.* at 12. Hood told the court that she understood she was waiving her right to appeal any sentence imposed by the court.
- [10] The court held a sentencing hearing on November 25, 2020. During the hearing, Hood acknowledged, under questioning by her counsel and the court, that the court could impose a sentence of up to four years. Further, Hood’s counsel confirmed with the court that the four-year sentence was a “hard cap.” *Id.* at 40. The court agreed, stating “I understand. So I couldn’t give her six, suspend two . . . .” *Id.* at 39. The court ultimately sentenced Hood to four years, explaining: “The first three years will be at the Indiana Department of Correction. . . . After that it’ll be followed by a year probation.” *Id.* at 42.
- [11] The sentencing order set forth a sentence of “4 years incarceration. The first three years are ordered served at the Indiana Department of Correction. The balance of the sentence (1 year) is suspended to Probation . . . .” Appellant’s App. Vol. II, p. 16. Similarly, the abstract of judgment states Hood received a four-year sentence, with three years executed and 365 days suspended to probation. Finally, the Chronological Case Summary (“CCS”) states that Hood received a sentence of four years in the Indiana Department of Correction, with 365 days suspended. Hood now appeals.

## Discussion and Decision

- [12] Article 7, section 6 of the Indiana Constitution authorizes the Court to review and revise sentences. This authority is implemented under Indiana Appellate Rule 7(B), which provides that the Court may revise a sentence if it “is inappropriate in light of the nature of the offense and the character of the offender.”
- [13] A defendant may waive the right to appellate review of his or her sentence as part of a written plea agreement. *Creech v. State*, 887 N.E.2d 73 (Ind. 2008). Hood agreed to such a waiver in her plea agreement, which unequivocally states that she waives her right to seek review of her sentence under Appellate Rule 7(B) if the trial court sentences her in accordance with the terms of the plea agreement.
- [14] In an attempt to avoid waiver, Hood argues the trial court did not comply with the plea agreement. Specifically, Hood claims the court sentenced her to five years, consisting of four years to be served in the Indiana Department of Corrections and on community corrections, plus one year of probation. We disagree. A review of the court’s statement at sentencing, the sentencing order, the abstract of judgment, and the CCS all demonstrate that the court imposed a sentence of four years, with one of those years suspended to probation. The court complied with the terms of the plea agreement, and Hood has waived her right to challenge her sentence on appeal. *See Westlake v. State*, 987 N.E.2d 170 (Ind. Ct. App. 2013) (defendant waived right to challenge appropriateness of

sentence under Appellate Rule 7(B); plea agreement explicitly waived sentencing claims under that rule).

## Conclusion

[15] For the reasons stated above, we affirm the judgment of the trial court.

[16] Affirmed.

Kirsch, J., and Altice, J., concur.