

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

Corey Lee Campbell,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff



April 18, 2024

Court of Appeals Case No.
23A-CR-2641

Appeal from the Henry Circuit Court
The Honorable Kit C. Dean Crane, Judge
Trial Court Cause No.
33C02-2305-F6-201

Memorandum Decision by Judge Foley
Judges Riley and Brown concur.

Foley, Judge.

- [1] Corey Lee Campbell (“Campbell”) pleaded guilty to Level 6 felony possession of methamphetamine¹ and was sentenced to 912 days in the Indiana Department of Correction (“the DOC”). Campbell now appeals, alleging his sentence is inappropriate under Appellate Rule 7(B). Campbell presents no challenge to the length of his sentence. Rather, he challenges his placement in the DOC. Concluding that the placement is not inappropriate, we affirm.

Facts and Procedural History

- [2] In May 2023, the State charged Campbell with three counts: (1) Level 6 felony possession of methamphetamine; (2) Class A misdemeanor driving while suspended;² and (3) Class C infraction operating a motor vehicle with a false plate.³ In September 2023, Campbell and the State entered a plea agreement under which Campbell would plead guilty to the Level 6 felony in exchange for the dismissal of a different criminal case. The plea agreement identified case number 33C02-2308-F6-336 (“the 336 Case”) as the case subject to dismissal. *See* Appellant’s App. Vol. 2 p. 41. In the 336 Case, Campbell faced four charges, i.e., three Level 6 felonies and one Class C misdemeanor. *See id.* at 53.

¹ Ind. Code § 35-48-4-6.1(a).

² I.C. § 9-24-19-2.

³ I.C. § 9-18.1-4-5.

- [3] The trial court held a plea hearing in October 2023. At the plea hearing, Campbell admitted that he knowingly possessed pure or adulterated methamphetamine on May 19, 2023. The trial court accepted Campbell's plea of guilty and entered a judgment of conviction. The State then moved to dismiss the 336 Case along with the two remaining counts in the instant case. The court dismissed the requested matters and, having already obtained a pre-sentence investigation ("PSI") report, proceeded to hold a sentencing hearing.
- [4] The PSI report reflected that Campbell had an extensive criminal history. From 2002 to 2012, Campbell was convicted of criminal offenses in Indiana, Texas, and Hawaii. Among those convictions was a felony-level conviction in Texas for credit card or debit card abuse. In 2016, Campbell was convicted of offenses in three different criminal cases. In the first case, he was convicted of Level 6 felony unlawful possession of a syringe and Class A misdemeanor operating a vehicle while intoxicated. In the second case, he was convicted of Level 6 felony possession of a precursor. In the third case, he was convicted of Level 6 felony unlawful possession of a syringe. Further, in that third case, Campbell was sentenced to 730 days with most of the time suspended to probation. Yet, in 2017, Campbell's probation was revoked. And, over the next five years, Campbell amassed additional felony and misdemeanor convictions, including two Level 6 felony convictions for theft and one for resisting law enforcement.
- [5] As of January 6, 2023—a few months before Campbell committed the instant offense—Campbell was on probation in connection with a suspended sentence for Class A misdemeanor possession of a controlled substance. A petition to

revoke Campbell's probation was filed in March 2023, after Campbell was charged with another Class A misdemeanor. In April 2023, Campbell was released from detention in the probation case so that he could participate in a treatment program. However, after Campbell was arrested in connection with the instant offense, another petition to revoke Campbell's probation was filed. Campbell admitted to the allegations, which led to the revocation of a portion of the previously suspended sentence. Furthermore, the record indicates that Campbell served "seven actual days" in August 2023 due to a "finding . . . [of] direct contempt" in a civil case. Tr. Vol. 2 pp. 13–14.

[6] Campbell testified at his sentencing hearing, admitting it was "obvious" that he struggled with addiction. *Id.* at 16. Campbell requested treatment for his addiction. He acknowledged that, although he had participated in intensive outpatient treatment "[a] couple times . . . only for a week or two at a time," he now had better support systems in place. *Id.* Campbell testified that he had a girlfriend and helped provide for two of her children. He said: "[E]ver since I've been with her, I quit doing heroin and tried to stay on the suboxone." *Id.* at 17. Campbell also testified that he helped care for his disabled brother.

[7] The State sought an aggravated sentence, asserting that Campbell "recently violated the terms and conditions of probation[.]" *Id.* at 19. The State added that "[o]pportunities that he's been given in the community for rehabilitation have been unsuccessful" and, therefore, the State was requesting a sentence of 2.5 years in the DOC. *Id.* As for Campbell, his defense counsel asserted that it was "a mitigating circumstance that [Campbell] accepted responsibilit[y] for his

actions.” *Id.* Defense counsel also asserted that Campbell had “accepted a plea agreement at the first pretrial conference,” which suggested that Campbell was “not looking to waste the [c]ourt’s time.” *Id.* Defense counsel added that Campbell “admits that he has an addiction issue, and he wants to address those issues,” breaking free from “a cycle that . . . Campbell has experienced in his life where he gets incarcerated . . . and just never really learns how to make changes.” *Id.* Campbell’s counsel agreed with the State’s recommendation of a 2.5-year sentence but asked that the trial court fully suspend the sentence to probation and order intensive inpatient treatment as a condition of probation.

- [8] The trial court ultimately sentenced Campbell to 912 days in the DOC. In selecting its sentence, the trial court identified as aggravating circumstances that Campbell had a history of criminal activity and had recently violated the conditions of his probation. Campbell now appeals.

Discussion and Decision

- [9] Campbell asks us to revise his sentence under Appellate Rule 7(B). He does not challenge the length of his sentence, which was 912 days. *See* Ind. Code § 35-50-2-7 (setting forth the sentencing range for a Level 6 felony, establishing a maximum sentence of 2.5 years). Rather, Campbell argues that his sentence is inappropriate because he is required to serve the sentence in the DOC “rather than in community corrections or on probation[.]” Appellant’s Br. p. 7.
- [10] Under Appellate Rule 7(B), we “may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the [c]ourt finds that the

sentence is inappropriate in light of the nature of the offense and the character of the offender.” Moreover, “[t]he place that a sentence is to be served is an appropriate focus for application of [this] review and revise authority.”

Biddinger v. State, 868 N.E.2d 407, 414 (Ind. 2007). When exercising our authority to revise a sentence under Appellate Rule 7(B), “[o]ur principal task is ‘to attempt to leaven the outliers’—not to achieve a ‘correct’ result in every case.” *Ramirez v. State*, 174 N.E.3d 181, 201–02 (Ind. 2021) (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008)). Moreover, “[w]hen we review a sentence under Appellate Rule 7(B), we show the trial court ‘considerable deference.’” *Oberhansley v. State*, 208 N.E.3d 1261, 1267 (Ind. 2023) (quoting *Cardwell*, 895 N.E.2d at 1222). “This ‘deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense’ and ‘the defendant’s character.’” *Id.* (quoting *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015)). Further, the defendant bears the burden of persuading us that the trial court’s sentence is inappropriate. *Ramirez*, 174 N.E.3d at 202.

[11] Starting with the nature of the offense, the Indiana Supreme Court has given several examples of compelling evidence that supports revising the sentence. Those examples include evidence that the criminal conduct was “accompanied by restraint, regard, and lack of brutality.” *Oberhansley*, 208 N.E.3d at 1271 (quoting *Stephenson*, 29 N.E.3d at 122). Here, Campbell admitted to possessing methamphetamine. In challenging his placement in the DOC, Campbell spends little time focusing on the nature of the offense. Rather, he asserts that he “possessed methamphetamine residue on a measuring scale in his vehicle”

and “[t]here was nothing particularly egregious or remarkable about this offense.” Appellant’s Br. p. 8. We similarly conclude that there is nothing particularly remarkable or compelling about the criminal conduct in this case.

[12] Turning to the character of the offender, our Supreme Court has identified “substantial virtuous traits” and “persistent examples of good character” as compelling evidence supporting sentence revision. *Oberhansley*, 208 N.E.3d at 1271 (quoting *Stephenson*, 29 N.E.3d at 122). Nevertheless, even if the record contains examples of good character, a history of criminal conduct weighs against relief. *See id.* at 1272. Here, Campbell acknowledges that he has “a lengthy criminal history[.]” Appellant’s Br. p. 8. Still, Campbell asserts that his criminal history is “comprised of mostly misdemeanor offenses related to his addiction.” *Id.* Campbell points out that he “accepted responsibility for his actions by pleading guilty.” *Id.* He also notes that he “had a plan for entering treatment to address his addiction.” *Id.* Furthermore, Campbell contends that he “had the motivation” to address his addiction because he “was in a serious relationship and had people in his life that depended on him for care.” *Id.*

[13] We acknowledge that Campbell elected to plead guilty, which generally reflects well on a person’s character. At the same time, Campbell’s decision to plead guilty likely involved at least some pragmatism, in that Campbell obtained the dismissal of several pending charges—including three Level 6 felonies—in exchange for his plea. In any case, although there is evidence indicating that Campbell was willing to address his addiction, it is not as though Campbell had

never received the opportunity for community-based treatment. Furthermore, Campbell had tried placements outside of the DOC. As the trial court put it:

In the past, there's been suspended sentences used. That didn't work. Short term periods of incarceration. That didn't work. . . . [T]here's histories where the State offered agreements to withhold prosecution. That didn't work. Probation -- numerous efforts at probation. That didn't stop you from reoffending. You were a participant in the drug court here locally, but you didn't last very long before you were exited out of drug court.

Tr. Vol. 2 p. 20. In short, the record illustrates that a range of non-DOC sentences did not deter Campbell from engaging in additional criminal conduct.

[14] Having considered the nature of the offense and Campbell's character, we are not persuaded that the DOC was an inappropriate placement for Campbell.

[15] Affirmed.

Riley, J., and Brown, J., concur.

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