MEMORANDUM DECISION

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IN THE

COURT OF APPEALS OF INDIANA

Nathan Allen Lundgren,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 6, 2021

Court of Appeals Case No. 21A-CR-1289

Appeal from the Noble Superior Court

The Hon. Robert E. Kirsch, Judge

Trial Court Cause No. 57D01-2002-F6-54

Bradford, Chief Judge.

Case Summary

[1] In March of 2021, Nathan Lundgren pled guilty to Level 6 felony auto theft, Level 6 felony resisting law enforcement, and Class A misdemeanor driving while suspended, and the trial court sentenced him to an aggregate sentence of two years of incarceration. Lundgren argues that his sentence is inappropriately harsh in light of the nature of his offense and his character. We affirm.

Facts and Procedural History

[2] On February 25, 2020, Lundgren was driving a stolen vehicle in Noble County without a license and while under the influence of marijuana when police attempted to conduct a vehicle stop. Instead of stopping, Lundgren fled and led police in a high-speed pursuit for approximately seven miles. At one point, Lundgren attempted to run a pursuing officer's car off of the road and also disregarded a stop sign while traveling approximately 115 miles per hour. Police were finally able to stop Lundgren, and he was arrested and charged with Level 6 felony auto theft, Level 6 felony resisting law enforcement, and Class A misdemeanor driving while suspended. On March 31, 2021, Lundgren pled guilty as charged, and, on June 1, 2021, the trial court sentenced him to two years for auto theft, two years for resisting law enforcement, and one year for driving while suspended, all sentences to be served concurrently.

Discussion and Decision

[3] Lundgren argues that his two-year, aggregate sentence is inappropriately harsh. We "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." Ind. Appellate Rule 7(B). "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Shouse v. State*, 849 N.E.2d 650, 660 (Ind. Ct. App. 2006), *trans. denied* (citations and quotation marks omitted). "[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, 1224 (Ind. 2008). In addition to the "due consideration" we are required to give to the trial court's sentencing decision, "we understand and recognize the unique perspective a trial court brings to its sentencing decisions." *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). As mentioned, the trial court sentenced Lundgren to an aggregate sentence of two years for his two Level 6 felony and one Class A misdemeanor convictions, which is less than the maximum of four years of incarceration it could have imposed. *See* Ind. Code § 35-50-2-7(b); 35-50-1-2(d)(1) ("If the most serious crime for which the defendant is sentenced is a Level 6 felony, the total of the consecutive terms of imprisonment may not exceed four (4) years.").

[4] The nature of Lundgren's offenses is egregious, in that his flight from police involved a lengthy, high-speed chase that put himself and many others at

serious risk. At the very least, Lundgren (while under the influence of marijuana) attempted to force pursuing police officers off of the road, drove approximately 115 miles per hour in a fifty-five-miles-per-hour zone, and passed several cars in a row after crossing a double yellow line. It is fortunate that nobody was seriously injured or killed during Lundgren's flight. Under the circumstances, Lundgren has failed to cast the nature of his offense "in a positive light" such that a revision of his sentence is warranted. *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[5] Lundgren's character, as revealed by his criminal history, also supports the imposition of an enhanced sentence. A defendant's criminal history is relevant in assessing his character. *Rutherford*, 866 N.E.2d at 874. The significance of a criminal history varies based on the gravity, nature, and number of prior offenses in relation to the present offense. *Id*. at 875. Beginning in 2005, at the age of twelve, Lundgren has been adjudicated a juvenile delinquent for runaway twice and what would be criminal mischief, conversion, two counts of battery, theft, and possession of reagents/precursors if committed by an adult.

[6] Lundgren's adult criminal history began in 2009 when he was arrested for Class B felony burglary, for which he was sentenced to twelve years of incarceration with eleven years suspended to community corrections and probation. Over the next three years, the State filed three petitions to revoke Lundgren's probation, and the trial court finally ordered Lundgren to execute five years of his suspended sentence. In 2018, Lundgren was convicted of residential entry and sentenced to two years of incarceration with one year suspended to community

corrections and one year suspended to probation. Approximately one year later, Lundgren was arrested for possession of methamphetamine, and, less than one year after that, he was arrested in the current case. Approximately seven months after he was arrested in this case, Lundgren was arrested for failure to return to lawful detention. Lundgren was again charged with residential entry approximately five months later. Lundgren's character, as revealed by his criminal history, establishes that his sentence is not inappropriate.

[7] Lundgren argues that his poor mental health renders his sentence inappropriate, alleging that he suffers from depression, was in special education classes in school, has attempted suicide, and has suffered two head injuries in the past. In the very similar context of an argument that a trial court has abused its discretion in sentencing, a defendant must show a nexus between his mental illness and the crime. *Weeks v. State*, 697 N.E.2d 28, 30 (Ind. 1998). Lundgren, however, does not explain how his head injuries, depression, or special education classes played a role in the commission of his offenses. In other words, Lundgren makes no attempt to establish a nexus between his alleged mental illness and his crimes. Lundgren has failed to establish that his sentence is inappropriate in light of the nature of his offense and his character.

[8] We affirm the judgment of the trial court.

Crone, J., and Tavitas, J., concur.