

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Nathanael Estes,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 3, 2021

Court of Appeals Case No.
21A-CR-310

Appeal from the Vanderburgh
Circuit Court

The Honorable Kelli E. Fink,
Magistrate

Trial Court Cause No.
82C01-2002-F2-1438

Weissmann, Judge.

[1] Nathanael Estes appeals his 22-year sentence for dealing in methamphetamine and theft. Finding that the sentence is not inappropriate in light of Estes's character and the nature of the offenses, we affirm.

Facts

[2] Police detained Estes at the Eastland Mall on suspicion of shoplifting. Upon searching his person, they found a men's fragrance bottle labeled "Dillards Tester" and several plastic bags containing white powder. A field test revealed that these bags contained 70 grams of methamphetamine and 3 grams of fentanyl.

[3] The State charged Estes with one count of dealing in methamphetamine, a Level 2 felony; one count of possession of a narcotic drug, a Level 5 felony; and one count of theft, a Class A misdemeanor. The State also sought an habitual offender enhancement. Estes ultimately pleaded guilty to the dealing and theft charges and admitted to being an habitual offender. The State dismissed the possession charge.

[4] The trial court sentenced Estes to a total of 22 years in the Department of Correction: 16 years for the dealing charge, 6 years for the habitual offender enhancement, and a concurrent term of 1 year for the theft charge. The court cited Estes's guilty plea, acceptance of responsibility, demonstrated remorse, and family support as mitigators. As for aggravators, the court noted that Estes committed the offenses while on parole, has an extensive criminal history, and was carrying a large amount of methamphetamine.

[5] Estes now appeals, arguing his 22-year sentence is inappropriate under Indiana Appellate Rule 7(B).

Discussion and Decision

[6] Rule 7(B) allows this court to revise a sentence if we find it is inappropriate in light of the nature of the offense and the character of the offender. App. R. 7(B). In conducting this review, we give substantial deference to the trial court. *Scott v. State*, 162 N.E.3d 578, 584 (Ind. Ct. App. 2021) (citing *Knapp v. State*, 9 N.E.3d 1274, 1292 (Ind. 2014)). The principal role of our review is not to achieve a perceived “correct” sentence but to leaven the outliers. *Id.*

[7] Estes argues that both prongs of the 7(B) analysis require a sentence of 20 years, which the pre-sentencing investigation report recommended. As for the nature of the offenses, he argues that the fragrance bottle he stole was of such low value, he should not have received the maximum sentence for that charge. Additionally, he argues that the charge for dealing in methamphetamine would have been difficult to prove without his guilty plea, so he should have only received the statutory minimum of 10 years for this charge. As for his character, he argues that he is “a good dad with an addiction problem.” Appellant’s Br., p. 8. He says his addiction has driven his criminality and he simply needs help.

[8] Neither the nature of his offenses nor his character demonstrate that Estes’s sentence is inappropriate. “[T]he length of the aggregate sentence and how it is to be served are the issues that matter.” *Wright v. State*, 168 N.E.3d 244, 268 (Ind. 2021) (quoting *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008)).

Estes's theft may have been minor, but he committed it while carrying 70 grams of methamphetamine in a shopping mall. As the trial court observed, "That's a lot of Methamphetamine." Tr. Vol. II, p. 50. Estes has failed to convince us that the nature of his offenses rendered his sentence inappropriate.

[9] Estes's character does not convince us his sentence is inappropriate, either. His addiction probably was a major factor in the commission of these crimes. But Estes failed to show he had seriously pursued addiction treatment in his almost 30 years of drug use. Perhaps past court-mandated programming was insufficient, as his daughter testified, but Estes failed to seek treatment on his own. *See Tanksley v. State*, 144 N.E.3d 824, 829 (Ind. Ct. App. 2020) (holding that appellant had failed to show his sentence was inappropriate at least in part because he had not sought meaningful addiction treatment). Estes's criminal history is also relevant in evaluating his character. *Johnson v. State*, 986 N.E.2d 852, 857 (Ind. Ct. App. 2013). He has 6 prior felony convictions and was on parole at the time he committed the offense. App. Vol. II, p. 54. Estes has not shown that his character requires a sentence with more leniency than the trial court already provided.

[10] Moreover, Estes's 16-year sentence for dealing in methamphetamine is less than the statutory recommendation of 17½ years. Ind. Code § 35-50-2-4.5. He also received the lowest possible enhancement for being an habitual offender. Ind. Code § 35-50-2-8(i). Only the theft charge garnered the maximum sentence, and it is running concurrently with his other sentences. The trial court also took

Estes's addiction issues into account by recommending him to drug treatment services during his incarceration.

[11] Estes has not convinced us that his 22-year sentence is inappropriate in light of the nature of the offense and the character of the offender. Accordingly, the judgment of the trial court is affirmed.

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