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

Theodis Washington,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff,

February 24, 2021

Court of Appeals Case No. 20A-CR-914

Appeal from the Washington Superior Court

The Honorable Frank Newkirk, Jr., Judge

The Honorable Sabrina R. Bell, Special Judge

Trial Court Cause No. 88D01-1505-F4-219

Robb, Judge.

Case Summary and Issues

[1] Following a jury trial, Theodis Washington was found guilty of dealing in a narcotic drug, a Level 3 felony; possession of a firearm by a serious violent felon, a Level 4 felony; four counts of possession of a controlled substance, all Level 6 felonies; possession of marijuana, a Class A misdemeanor; carrying a handgun without a license, a Class A misdemeanor; and was found to be an habitual offender. The trial court sentenced Washington to sixteen years for dealing in a narcotic drug enhanced by twenty years for being an habitual offender to be executed in the Indiana Department of Correction ("DOC") with two years suspended to probation.[1] Washington now appeals, raising several issues which we restate as: (1) whether defects in the amended charging information for the Level 3 felony constituted fundamental error; (2) whether the trial court's jury instructions regarding the Level 3 felony constituted fundamental error; (3) whether the trial court erred in admitting certain evidence; (4) whether the trial court erred by failing to find a violation of Indiana Criminal Rule 4(C); and (5) whether Washington's executed sentence is inappropriate in light of the nature of his offense and his character.

[2] Concluding that the amended charging information did not constitute fundamental error; the jury instructions were not deficient; the trial court did not abuse its discretion by admitting certain evidence; Washington waived any

[1] Washington's other sentences run concurrently with his dealing in a narcotic drug sentence.

Criminal Rule 4(C) claim; and Washington's sentence was not inappropriate, we affirm.

Facts and Procedural History

[3] In April 2015, Indiana State Police Officer Nathan Teusch initiated a traffic stop on a Ford SUV for speeding. Jeremiah Underwood was driving the vehicle and Washington was the passenger. During the traffic stop, Officer Teusch detected the odor of burnt marijuana and during a preliminary search, he discovered Washington was carrying $4,161 in cash.

[4] Meanwhile, Washington County Sheriff's Department Deputy Joseph Keltner arrived on scene to provide assistance. Deputy Keltner and Officer Teusch then took inventory of the vehicle. During the search, they discovered a small plastic bag containing a white powdery substance believed to be heroin; an off-white powdery substance in aluminum foil believed to be heroin; five pink hydrocodone tablets and one white hydrocodone tablet; two green Oxycodone tablets; nine Suboxone packets; a plastic baggy with a green plant like material suspected to be marijuana; a firearm with a fully loaded magazine; one partially burnt hand-rolled cigarette containing suspected marijuana; and two cellphones. *See* Exhibits, Volume 5 at 4-22.[2] The two white powdered

[2] Citation to the Exhibits Volume is based on the .pdf pagination.

substances were in fact heroin, weighing 1.19 and 1.36 grams, respectively. *See* Transcript, Volume 3 at 66.

[5] On May 4, 2015, the State charged Washington with possession of a narcotic drug, possession of marijuana, four counts of possession of a controlled substance, maintaining a common nuisance, carrying a handgun without a license, and unlawful possession of a firearm by a serious violent offender. The State also alleged that Washington was an habitual offender. Following Washington's initial hearing, his trial was set for September 15. However, on August 24, Washington filed a motion to continue and the trial was moved to January 20, 2016.

[6] On September 28, 2015, Washington entered into a plea agreement where he agreed to plead guilty to possession of a firearm by a serious violent felon as a Level 4 felony. In exchange, Washington was released from pretrial incarceration to be treated at Serenity House.[3] However, Washington was subsequently discharged from Serenity House for selling heroin to another resident's girlfriend. Washington did not return to jail as he was ordered and was served a bench warrant and arrested in October 2016.

[7] On November 30, 2016, Washington filed a motion to withdraw his guilty plea. After a hearing, the trial court granted the motion and reset Washington's trial for March 21, 2017. In February 2017, the State filed a motion to amend the

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[3] Successful treatment at Serenity House with no violations was an additional term of his release.

charging information to change the possession of a narcotic drug charge, a Level 4 felony, to dealing in a narcotic drug, a Level 3 felony, and the four counts of possession of a controlled substance, Level 6 felonies, to dealing in a controlled substance, Level 5 felonies.

[8] After a series of continuances, Washington was tried beginning on March 3, 2020. After a three-day trial, the jury found Washington guilty of dealing in a narcotic drug, a Level 3 felony; possession of a firearm by a serious violent felon, a Level 4 felony; four counts of possession of a controlled substance, all Level 6 felonies, as lesser included offenses of dealing in a controlled substance; possession of marijuana, a Class A misdemeanor; carrying a handgun without a license, a Class A misdemeanor; and was found to be an habitual offender.

[9] At the sentencing hearing, the trial court found Washington's significant criminal history, his lack of remorse, substance abuse, and the fact he has never successfully completed probation to be aggravating factors. *See* Tr., Vol. 4 at 145-46. The trial court found no mitigating factors. *See id.* at 146. The trial court sentenced Washington to sixteen years for dealing in a narcotic drug enhanced by twenty years for being an habitual offender to be executed in the DOC with two years suspended to probation. The sentences for the remainder of Washington's convictions were to run concurrently with the dealing in a narcotic drug sentence.

[10] Washington now appeals. Additional facts will be provided as necessary.

Discussion and Decision

I. Charging Information

[11] Washington argues that the State's charging information for the dealing in a narcotic drug charge contained a misstatement of law that was never corrected. "The proper method to challenge deficiencies in a charging information is to file a motion to dismiss the information, no later than twenty days before the omnibus date." *Chavez v. State*, 988 N.E.2d 1226, 1230 (Ind. Ct. App. 2013) (citation and quotation omitted), *trans. denied.* Washington filed no such a motion.

[12] Failure to timely challenge an allegedly defective charging information results in waiver unless fundamental error has occurred. *See Hayden v. State*, 19 N.E.3d 831, 840 (Ind. Ct. App. 2014), *trans. denied*. Fundamental error is an extremely narrow exception to the waiver rule, and the defendant faces the heavy burden of showing that the alleged error is so prejudicial to the defendant's rights as to make a fair trial impossible. *Ryan v. State*, 9 N.E.3d 663, 668 (Ind. 2014). An error in a charging information is fundamental if it "mislead[s] the defendant or fail[s] to give him notice of the charges against him so that he is unable to prepare a defense to the accusation." *Leggs v. State*, 966 N.E.2d 204, 208 (Ind. Ct. App. 2012) (quotation omitted).

[13] The State's amended information for dealing in a narcotic drug was based on Indiana Code section 35-48-4-1 and stated:

> [Washington], did then and there knowingly or intentionally possess a narcotic drug, to wit: heroin, with intent to deliver and the aggregate amount of the substance is less than five (5) grams and an enhancing circumstances applies, to wit: possession of a firearm or manufacturing through packaging[.]

Appellant's Third Amended Appendix ("Appellant's App."), Volume 2 at 102. Indiana Code section 35-48-4-1(d)(2) states that dealing is a Level 3 felony if "the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies[.]"

[14] Washington claims that the charge against him is a misstatement of law because it omits that the heroin must be "at least one (1) gram" and thus he was not adequately informed of the charges against him. Appellant's Amended Brief ("Appellant's Br.") at 8. Specifically, Washington argues that he "would have changed his trial strategy to focus more on the weight and the possession of the bags if he knew that the charge had to be over one gram. He could have produced his own experts regarding the possibility of mistakes in the testing and weighing procedure." *Id.* at 17.

[15] Here, the charging information references both the overarching statute, Indiana Code 35-48-4-1, and that Washington was being charged with a Level 3 felony. Therefore, Washington was given notice of the one gram minimum and any potential trial strategy he claims to have been prevented from focusing on was always available to him. *See Wilhoite v. State*, 7 N.E.350, 353 (Ind. Ct. App. 2014) ("An Information that enables an accused, the court, and the jury to determine the crime for which conviction is sought satisfies due process.")

(citation omitted). Further, we are unpersuaded that Washington has shown that he was prejudiced. The bags of heroin found weighed 1.19 and 1.36 grams, thus combined to be almost twice the omitted weight minimum.

[16] We conclude that Washington did not show fundamental error, and his argument fails. *See Wine v. State,* 637 N.E.2d 1369, 1374-75 (Ind. Ct. App. 1994) (holding there was no fundamental error where the defendant did not demonstrate his defense was impeded by the inadequacy of the charging information), *trans. denied.*

II. Jury Instruction

[17] Washington argues that the jury instruction for his Level 3 felony was a misstatement of law. When the appellant challenges an instruction as an incorrect statement of law, we apply a de novo standard of review. *Kane v. State,* 976 N.E.2d 1228, 1231 (Ind. 2012). We reverse the trial court only if the instruction resulted in prejudice to the defendant's "substantial rights." *Hernandez v. State*, 45 N.E.3d 373, 376 (Ind. 2015).

[18] "Failure to object to a jury instruction results in waiver on appeal, unless giving the instruction was fundamental error." *Wright v. State*, 730 N.E.2d 713, 716 (Ind. 2000). An error may be fundamental and thus not subject to waiver if it is a "substantial blatant violation of basic principles." *Moreland v. State*, 701 N.E.2d 288, 294 (Ind. Ct. App. 1998) (internal quotation omitted). The error must be so prejudicial to the defendant's rights as to make a fair trial impossible. *Id.* "This exception to the general rule requiring a contemporaneous

objection is narrow, providing relief only in egregious circumstances[.]" *Pattison v. State*, 54 N.E.3d 361, 365 (Ind. 2016) (quotations omitted).

[19] In considering a claim of fundamental error with respect to jury instructions, we look to the instructions as a whole to determine if they were adequate. *Munford v. State*, 923 N.E.2d 11, 14 (Ind. Ct. App. 2010). "When determining whether a defendant suffered a due process violation based on an incorrect jury instruction, we look not to the erroneous instruction in isolation, but in the context of all relevant information given to the jury, including closing argument, and other instructions[.]" *Boesch v. State*, 778 N.E.2d 1276, 1279 (Ind. 2002) (internal citations omitted). When all the information, as a whole, does not mislead the jury as to the correct understanding of the law, there is no due process violation. *Id.*

[20] Washington argues that the jury was improperly instructed because preliminary instruction two and final instruction five were incorrect statements of law. Washington argues that the instructions given to the jury stated that dealing in a narcotic drug requires that:

> Washington, did then and there knowingly or intentionally possess narcotic drug, to wit: heroin, with intent to deliver and the aggregate amount of the substance is less than five [] grams and an enhancing circumstance applies[.]

Appellant's Br. at 18-19.[4] Washington contends that these instructions were incorrect statements of law because they omit that Washington must have been in possession of more than one gram of heroin pursuant to Indiana Code section 35-48-41-1(d)(2). The language quoted above was read to the jury as part of the charging information against Washington. However, considering the entirety of the final instructions to the jury, the trial court also instructed the jury of the elements of section 35-48-41-1(d)(2) and correctly stated that for a person to be found guilty of dealing in a narcotic drug, he must be found with "at least one (1) gram but less than five (5) grams." Tr., Vol. 4 at 96. Thus, the requirement that the heroin be more than one gram was explicitly explained to the jury.

[21] Further, Washington was found with two bags of heroin weighing 1.19 and 1.36 grams respectively. Washington argues that he was prejudiced by the instructional omission because "[n]o one can know if the jurors assessed the weight of the heroin being sold during trial or during deliberations[.]" Appellant's Br. at 12. Washington concedes that he "does not claim that someone tampered with, altered, or caused a substitution in the samples in the case at bar[,]" but contends "that there could have been a weighing mistake made by the technician during the testing of the samples."[5] *Id.* at 17.

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[4] Washington does not cite to the record.

[5] As stated earlier, *supra* ¶ 15, Washington did argue that he could have "changed his trial strategy to focus more on the weight and the possession of the bags if he knew that the charge had to be over one gram . . . [or]

[22] Washington made no objection to the admission of the heroin and did not challenge the bags' weights during the trial.[6] We are unpersuaded by his contention that the jury could have determined that the combined weight of the bags of heroin weighed less than a gram seemingly on a whim. Because the bags combined to weigh over 2.5 grams, we conclude that any failure by the trial court to instruct the jury that the minimum was one gram did not constitute fundamental error.

III. Admission of Evidence

[23] The admission and exclusion of evidence falls within the sound discretion of the trial court, and we review the admission of evidence only for an abuse of discretion. *Wilson v. State,* 765 N.E.2d 1265, 1272 (Ind. 2002) (quotation omitted). An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. *Conley v. State,* 972 N.E.2d 864, 871 (Ind. 2012).

[24] Washington argues that the trial court erred in admitting Officer Teusch's testimony about transporting Washington to jail and Washington's behavior

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produced his own experts regarding the possibility of mistakes in the testing and weighing procedure." Appellant's Br. at 17. However, we do not believe that the jury instructions had any effect on his trial strategy.

[6] Forensic scientist William Bowles testified that the two bags contained heroin and weighed 1.19 and 1.36 grams. *See* Tr., Vol. 3 at 66.

once they reached the jail.[7] During the State's examination of Officer Teusch, he testified as follows, in relevant part:

> [State:] Can you describe that transport?
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> [Officer Teusch:] During the transport of [Washington], it was a very, very intense transport to the jail. [Washington] became very belligerent, cursing, screaming, yelling. He was kicking at my dash. At the door, he continued by drawing up saliva in his mouth and clearing his nose and lunging towards me as if he was going to spit into my face. I explained to [Washington] that that would be a very poor decision because he would be, he would be, his actions would be battery upon a police officer if he did that. That continued. A lot of accusing me of being a racist. A lot of vulgar profanity coming towards me. I had to stop my vehicle on two different occasions and properly secure [Washington] because what he would, with his hands behind his back, he would reach down and unbuckle himself and then try to get to the door to undo it to get out of the vehicle as the vehicle, this was as the vehicle was moving. So, on two occasions I had to stop and re-secure [Washington].
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> * * *
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> [Q:] What happened when you got to the jail?
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> [A:] Got to the jail and as we went to book-in, Mr. Washington indicated to the jail staff that he had swallowed drugs and had placed drugs in his rectum.

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[7] Washington's brief includes the term "fundamental error" in the header of his admission of evidence section; however, he does not make any fundamental error argument in the body of the section.

> [Q:] Okay. So after this transport, with the spitting, cursing, trying to get out of the vehicle, you stopped twice, then you get to the jail and then he announces to everyone within ear shot that he swallowed drugs and placed drugs in his rectum?
>
> [A:] Correct.
>
> [Q:] Okay, so what, what, if anything do you do at that point?
>
> [A:] At that time, I was asked by the jail staff, for medical purposes, to take Mr. Washington to the emergency room to be cleared by a physician prior to him being booked in at the jail. And I transported Mr. Washington to the Salem ER, which is not the Saint Vincent Hospital Emergency Room.

Tr., Vol. 3 at 40-41.

[25] Washington argues that this testimony violates Indiana Rule of Evidence 404(b) because the testimony details an "unrelated bad act." Appellant's Br. at 19. Washington further contends that the testimony is irrelevant. However, a contemporaneous objection at the time the evidence is introduced at trial is required to preserve such issues for appeal. *Jackson v. State,* 735 N.E.2d 1146, 1152 (Ind. 2000). Washington failed to object to the testimony at trial and does not argue fundamental error.

[26] Washington makes no showing of how the inclusion of Officer Teusch's testimony prejudiced him to the extent that it made "a fair trial impossible." *Clark v. State,* 915 N.E.2d 126, 131 (Ind. 2009). Instead, Washington only

argues that this admission violated various Indiana Evidence Rules.[8] Because Washington fails to argue that fundamental error occurred when Officer Teusch's testimony was admitted without objection, this issue is waived.

IV. Criminal Rule 4(C)

[27] Washington argues that he "is entitled to a dismissal of this case because of Criminal Rule 4(C) violations." Appellant's Br. at 22. Indiana Criminal Rule 4(C) provides in relevant part:

> No person shall be held on recognizance or otherwise to answer a criminal charge for a period in aggregate embracing more than one year from the date the criminal charge against such defendant is filed, or from the date of his arrest on such charge, whichever is later; except where a continuance was had on his motion, or the delay was caused by his act, or where there was not sufficient time to try him during such period because of congestion of the court calendar[.] Any defendant so held shall, *on motion*, be discharged.

(Emphasis added.) Thus, under Criminal Rule 4(C), a defendant may seek and be granted a discharge if he is not brought to trial within the proper time period. *State v. Harper*, 135 N.E.3d 962, 972 (Ind. Ct. App. 2019), *trans. denied*. In reviewing Criminal Rule 4 claims, we review questions of law *de novo*, and we review factual findings under the clearly erroneous standard. *Id.*

[8] We make no determination as to the admissibility of Officer Teusch's testimony.

[28] The purpose of Indiana Criminal Rule 4(C) is to promote early trials, not to discharge defendants. *Fuller v. State*, 995 N.E.2d 661, 665 (Ind. Ct. App. 2013), *trans. denied.* Subject to the exceptions listed in Rule 4(C), the State has an affirmative duty to bring the defendant to trial within one year of being charged or arrested. *Wood v. State*, 999 N.E.2d 1054, 1060 (Ind. Ct. App. 2013), *trans. denied*, *cert. denied*, 574 U.S. 874 (2014). The defendant is neither obligated to remind the court of the State's duty nor required to take affirmative steps to ensure that he is brought to trial within the statutory time period. *Id.* At the same time, Criminal Rule 4 is not intended to be a mechanism for providing defendants a technical means to escape prosecution. *Austin*, 997 N.E.2d at 1037.[9]

[29] A defendant "must object to a trial setting at the earliest opportunity if she learns within the period provided by the rule that the case is set for trial at a time beyond the date permitted." *Johnson v. State*, 708 N.E.2d 912, 915 (Ind. Ct. App. 1999), *trans. denied.* "If a defendant fails to object at the earliest opportunity to a trial set outside the prescribed one-year period, she is deemed to have acquiesced to the belated trial date." *Id.* Further, our supreme court has held that defendants are required to either object or move for discharge to preserve any claim of a violation of Criminal Rule 4 for appeal: "[t]he issue

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[9] Here, the parties have very different allocations of responsibility for days between the beginning of the tolling period and the trial date. Washington claims that the State is responsible for 465 days of delay while the State contends that at most 213 days are attributable to it. However, because we conclude that Washington waived any right to bring this claim, we make no determination as to whose calculations are correct.

may not be raised for the first time on appeal when it is too late to do anything but discharge the defendant." *Brown v. State*, 725 N.E.2d 823, 825 (Ind. 2000).

[30] Because the record is devoid of any evidence that Washington objected to the trial setting or filed a motion to discharge, we conclude that Washington has waived any Criminal Rule 4(C) claim.[10]

V. Sentencing

[31] Indiana Appellate Rule 7(B) permits us to revise a sentence "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." Sentencing is "principally a discretionary function" of the trial court to which we afford great deference. *Cardwell v. State*, 895 N.E.2d 1219, 1222 (Ind. 2008). "Such deference should prevail unless overcome by compelling evidence portraying in a positive light the nature of the offense . . . and the defendant's character[.]" *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

[32] The defendant carries the burden of persuading us that the sentence imposed by the trial court is inappropriate, *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006), and we may look to any factors appearing in the record in making such a determination, *Reis v. State*, 88 N.E.3d 1099, 1102 (Ind. Ct. App. 2017). The question under Rule 7(B) is "not whether another sentence is *more* appropriate;

[10] Washington does not argue fundamental error.

rather, the question is whether the sentence imposed is inappropriate." *King v. State*, 894 N.E.2d 265, 268 (Ind. Ct. App. 2008). "The principal role of appellate review should be to attempt to leaven the outliers ... not to achieve a perceived 'correct' result in each case." *Cardwell*, 895 N.E.2d at 1225.

[33] Washington contends that his sentence is inappropriate in light of the nature of his offense and his character.[11] Appellant's Br. at 25. We disagree.

[34] First, our analysis of the "nature of the offense" portion of sentence review begins with the advisory sentence. *Clara v. State*, 899 N.E.2d 733, 736 (Ind. Ct. App. 2009). The advisory sentence is the starting point selected by the legislature as an appropriate sentence for the crime committed. *Childress*, 848 N.E.2d at 1081. Washington was found guilty of dealing in a narcotic drug, a Level 3 felony. Indiana Code section 35-50-2-5(b) states that:

> [a] person who commits a Level 3 felony . . . shall be imprisoned for a fixed term of between three (3) and sixteen (16) years, with the advisory sentence being nine (9) years.

And pursuant to Indiana Code section 35-50-2-8(i)(1):

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[11] The trial court did not find any mitigating factors. Tr., Vol. 4 at 146. Washington argues that the trial court abused its discretion by not considering his addiction, troubled upbringing caused by alcoholism in his family, and his age at the time he committed an offense that supported the habitual offender enhancement, as mitigating circumstances. Appellant's Br. at 25. However, Washington failed to raise these factors at his sentencing hearing and the trial court does not abuse its discretion in failing to consider a mitigating factor that was not raised at sentencing. *Georgopulos v. State*, 735 N.E.2d 1138, 1145 (Ind. 2000); *see also Creekmore v. State,* 853 N.E.2d 523, 530 (Ind. Ct. App. 2006) ("[I]f the defendant fails to advance a mitigating circumstance at sentencing, this court will presume that the factor is not significant, and the defendant is precluded from advancing it as a mitigating circumstance for the first time on appeal.").

> [t]he court shall sentence a person found to be a habitual offender to an additional fixed term that is between . . . six (6) years and twenty (20) years, for a person convicted of . . . a Level 1 through Level 4 felony[.]

[35] Here, Washington was sentenced to the maximum sentence for his Level 3 conviction and the maximum enhancement for a total of thirty-six years. Our supreme court has stated that "the maximum possible sentences are generally most appropriate for the worst offenders." *Buchanan v. State*, 767 N.E.2d 967, 973 (Ind. 2002). However, it is Washington's burden to demonstrate that the imposed sentence is inappropriate in light of the nature of the offense. By providing no details or circumstances of his offense, he has failed to meet his burden.

[36] Next, the "character of the offender" portion of the Rule 7(B) standard refers to the general sentencing considerations and relevant aggravating and mitigating factors, *Williams v. State*, 782 N.E.2d 1039, 1051 (Ind. Ct. App. 2003), *trans. denied*, and permits a broader consideration of the defendant's character, *Anderson v. State*, 989 N.E.2d 823, 827 (Ind. Ct. App. 2013), *trans. denied.*

[37] A defendant's life and conduct are illustrative of his character. *Washington v. State*, 940 N.E.2d 1220, 1222 (Ind. Ct. App. 2011), *trans. denied*. We consider facts such as "substantial virtuous traits or persistent examples of good character[.]" *Prince v. State,* 148 N.E.3d 1171, 1174 (Ind. Ct. App. 2020) (citation omitted). Further, one relevant factor in assessing character is a

defendant's criminal history. *Rutherford v. State*, 866 N.E.2d 867, 874 (Ind. Ct. App. 2007). The significance of criminal history "varies based on the gravity, nature, and number of prior offenses in relation to the current offense." *Id.*

[38] The record reveals that Washington has an extensive criminal history. His juvenile history includes multiple adjudications for what would have been felonies if committed as an adult, and as an adult he has been convicted of four felonies and two misdemeanors since 2007. Appellant's App., Vol. 4 at 135. His charges include illegal drugs, possession of a handgun, theft, and burglary. *See id.*

[39] Generally, our analysis of the character of the offender involves a "broad consideration of a defendant's qualities." *Aslinger v. State*, 2 N.E.3d 84, 95 (Ind. Ct. App. 2014). However, Washington only cites his "remorse, responsibilities and medical issue" as indicators that his sentence is inappropriate in light of his character. Appellant's Br. at 26. Without further explanation, this does not overcome his criminal history. Thus, we conclude that Washington failed to meet his burden to persuade this court that his sentence is inappropriate in light of his character.

Conclusion

[40] We conclude that the amended charging information did not constitute fundamental error; the jury instructions were not deficient; the trial court did not abuse its discretion by admitting certain evidence; Washington waived any

Criminal Rule 4(C) claim; and Washington's sentence was not inappropriate. Therefore, we affirm.

[41] Affirmed.

Bailey, J., and Tavitas, J., concur.