

STATEMENT OF THE CASE

Robert Woolsey appeals from his sentence following his conviction for Operating a Motor Vehicle While Privileges Were Forfeited for Life, a Class C felony, after Woolsey pleaded guilty. Woolsey raises a single issue for our review, namely, whether his eight-year sentence, with four years suspended, is inappropriate under Indiana Appellate Rule 7(B).

We affirm.

FACTS AND PROCEDURAL HISTORY

In the evening of June 13, 2008, Indianapolis Metropolitan Police Officer Anthony Finnell pulled over a Dodge pick-up truck that was being operated at a high rate of speed. Officer Finnell identified Woolsey as the driver, and Woolsey stated that he did not have a driver's license on him because his license had been forfeited for life. Officer Finnell confirmed the license forfeiture and arrested Woolsey.

On June 16, the State charged Woolsey with operating a motor vehicle while privileges were suspended for life, a Class C felony. On August 22, Woolsey entered into a plea agreement with the State. Pursuant to that agreement, the "parties [were] to argue sentencing with the stipulation that the executed portion shall not exceed five (5) years." Appellant's App. at 19 (emphases removed). At the ensuing sentencing hearing later that day, Woolsey testified that he "could do Community Corrections[,] home detention or work release." Transcript at 17.

That same day, the trial court ordered Woolsey to serve eight years, with four years suspended. In so ordering, the court stated, in relevant part, as follows:

[T]he Court does recognize as a mitigating factor that Mr. Woolsey has accepted responsibility for his actions by pleading guilty The Court also believes Mr. Woolsey is sincere today in his apology. . . . The Court has to consider your history, of course, Mr. Woolsey It is a substantial history from the '80s [Y]our operating while habitual traffic violator started in Court IV. You had a conviction there in '97 with a four-year suspended sentence. Your probation was revoked there. And then Court I, you had the same charge. You were on probation for two years. It appears that you successfully completed probation there. Then the conviction here in January of 2005, in this court for the same offense. It appears that there was a new violation of probation filed due to a new arrest for this same offense, April 30th of 2006, while you were on probation. And then you served a four-year executed sentence on that new arrest. The date of that conviction was July of 2006. And I believe sitting here that you're sincere about never driving again and that you recognize how your decision-making has had a bad impact on your family, yourself. But what your record shows the Court is that I don't know that you're going to take that attitude with you. So I don't know that you're a good candidate for Community Corrections. And your attorney has done a very good job in limiting your exposure here because your record surely supports a full eight-year executed sentence

Id. at 24-26. This appeal ensued.

DISCUSSION AND DECISION

Woolsey contends that his sentence is inappropriate under Indiana Appellate Rule 7(B). Although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution “authorize[] independent appellate review and revision of a sentence imposed by the trial court.” Roush v. State, 875 N.E.2d 801, 812 (Ind. Ct. App. 2007) (alteration original). This appellate authority is implemented through Indiana Appellate Rule 7(B). Id. Revision of a sentence under Appellate Rule 7(B) requires the appellant to demonstrate that his sentence is inappropriate in light of the nature of his offenses and his character. See Ind. Appellate Rule 7(B); Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We

assess the trial court's recognition or non-recognition of aggravators and mitigators as an initial guide to determining whether the sentence imposed was inappropriate. Gibson v. State, 856 N.E.2d 142, 147 (Ind. Ct. App. 2006). "The place that a sentence is to be served is an appropriate focus for application of our review and revise authority." Biddinger v. State, 868 N.E.2d 407, 414 (Ind. 2007). However, "a defendant must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review." Roush, 875 N.E.2d at 812 (alteration original).

Woolsey's only argument on appeal is that his "placement in prison is inappropriate because it denies him [the] opportunity to reform his behavior through employment and self support." Appellant's Brief at 6. In support of that position, Woolsey states that "memoranda from the home detention program and Marion County Community Corrections were filed with the trial court[,¹ and] these recommendations indicated that [Woolsey] was eligible for a community correction/home detention placement." Id. (citations omitted). Woolsey also notes that his "testimony indicated that he attempted to continue his work in home remodeling. It was difficult to get to his work sites. His father drove him. He paid an individual to be his driver. [He] was arrested while driving home from a job." Id. (citations omitted).

Again, the place that a sentence is to be served is an appropriate basis for an appeal under Rule 7(B). Biddinger, 868 N.E.2d at 414. Here, Woolsey requested that the trial court order him to serve his sentence in community corrections, work release, and/or home detention. The trial court denied Woolsey's request, stating that Woolsey was not a

¹ Woolsey has not included these documents in his Appellant's Appendix.

“good candidate” for those programs in light of his extensive criminal history. Transcript at 24-26. Woolsey’s criminal history dates back to 1987 and includes seventeen convictions, at least eight of which are felonies. Of those prior felony convictions, four are for operating a motor vehicle after having his license forfeited for life, the subject matter of the instant conviction. And in two of those prior operation convictions, Woolsey was sentenced to a term of probation only to have that probation revoked. Thus, Woolsey’s poor character, especially as it pertains to his repeated willingness to drive despite having his license forfeited for life, justifies his placement in the Department of Correction.

In sum, Woolsey does not cogently explain how an extended period of home detention or work release would be “more appropriate” than the sentencing placement the trial court imposed. Biddinger, 868 N.E.2d at 414. Woolsey has not challenged the sentence imposed in light of the nature of his offense, and Woolsey’s appeal cannot stand in light of his demonstrably poor character. Thus, Woolsey has not carried his burden of persuading this court that the location of his sentence is inappropriate based upon his character and the nature of the offense he committed. See id.

Affirmed.

FRIEDLANDER, J., and VAIDIK, J., concur.