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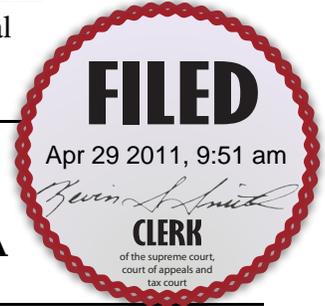
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**IN THE
COURT OF APPEALS OF INDIANA**

TIMOTHY RENE WARREN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 02A03-1009-CR-461

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Kenneth R. Scheibenberger, Judge
Cause No. 02D04-1005-FD-464

April 29, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Timothy Rene Warren pled guilty to theft and was sentenced to three years. On appeal, Warren argues that his sentence is inappropriate. Given his failed attempts at rehabilitation and his long record of property- and drug-related offenses, Warren has not shown that his sentence is inappropriate. Therefore, we affirm.

Facts and Procedural History

On May 16, 2010, Warren stole \$141.03 worth of liquor from a Kroger store, and he planned to sell the liquor so that he could buy drugs. Warren was charged with theft as a class D felony. On July 20, 2010, Warren pled guilty without a plea agreement.

The sentencing hearing was held on August 16, 2010. Warren stated that he was on unsupervised parole at the time of the offense. He had checked himself in to a Salvation Army rehabilitation center, but left to help take care of his granddaughter when his daughter became seriously ill with lupus. He later attempted to check back in, but the rehabilitation center would not accept him right away. He stated that he relapsed while waiting to be readmitted. In the pre-sentence investigation report, Warren stated that he had received substance abuse counseling about twenty years ago and also received substance abuse treatment while incarcerated in 2004.

The trial court found as aggravating factors Warren's lengthy criminal record and his prior failed attempts at rehabilitation. As mitigating factors, the trial court found that Warren had accepted responsibility and was addicted to drugs. Finding that the aggravating factors

outweighed the mitigating factors, the trial court sentenced Warren to three years in the Department of Correction, the maximum sentence. Warren now appeals his sentence.

Discussion and Decision

Warren asserts that his sentence is inappropriate based on the nature of the offense and his character. Article 7, Section 6 of the Indiana Constitution authorizes this Court to independently review and revise a sentence imposed by the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218. Indiana Appellate Rule 7(B) states, “The Court 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.” “The principal role of appellate review should be to attempt to leaven the outliers, and ... not to achieve a perceived ‘correct’ result in each case.” *Cardwell v. State*, 895 N.E.2d 1219, 1225 (Ind. 2008). “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.” *Purvis v. State*, 829 N.E.2d 572, 587 (Ind. Ct. App. 2005) (internal citations and quotations omitted), *trans. denied, cert. denied*. The defendant bears the burden of persuading us that the sentence is inappropriate. *Rutherford v. State*, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007).

As to the nature of the offense, Warren argues that he could have been charged with conversion, which is a misdemeanor, instead of theft, which is a felony. *Compare* Ind. Code § 35-43-4-3(a) (“A person who knowingly or intentionally exerts unauthorized control over

property of another person commits criminal conversion, a Class A misdemeanor.”) *with* Ind. Code § 35-43-4-2(a) (“A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony.”). However, Warren admitted that he intended to deprive Kroger of the value or use of its property. We see no reason to compare his offense to the offense of conversion when he admitted facts that establish the offense of theft.

As to Warren’s character, the trial court acknowledged that he is an addict, but also noted that prior attempts at rehabilitation had failed. Warren also has an extensive criminal history dating back to 1980. He has nine prior convictions of class D felony theft and twenty-one convictions of misdemeanor conversion. He also has two convictions of possession of paraphernalia, two convictions of operating while intoxicated, and two convictions of operating while suspended, for a total of thirty-six prior convictions. In addition, Warren has had parole, probation, or a suspended sentence revoked on nine different occasions, and he was on unsupervised parole at the time of the current offense. Given Warren’s failed attempts at rehabilitation and his long record of property- and drug-related offenses, Warren has not demonstrated that a three-year sentence is inappropriate.

Affirmed.

NAJAM, J., and ROBB, C.J., concur.