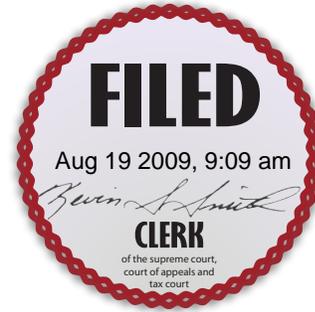


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

JOHN PINNOW
Greenwood, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

HECTOR SEBA,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 90A05-0902-CR-82

APPEAL FROM THE WELLS CIRCUIT COURT
The Honorable David L. Hanselman, Sr., Judge
Cause No. 90C01-0705-FC-18

August 19, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Hector Seba appeals his eight-year sentence for Class C felony leaving the scene of an accident resulting in death. We affirm.

Issue

Seba raises one issue, which we restate as whether his eight-year sentence is inappropriate in light of the nature of the offense and his character.

Facts

On May 14, 2007, Seba and three friends, Rolando Soto, Willie Camacho, and Moises Escribano, were traveling in Seba's SUV. All four had been "bar hopping" that evening and Seba was driving. App. p. 198. Seba lost control of the vehicle, causing it to roll and crash. Seba pulled Camacho and Escribano, both severely injured, from the vehicle. Soto was thrown from the vehicle and discovered in a nearby ditch. He died. Seba ran from the accident scene and into the nearby woods. He did not call police or paramedics.

Witnesses called police, and deputies Powell and Bradley from the Wells County Sheriff's Department arrived at the scene. Escribano told the deputies that the group had been out drinking. Authorities located Seba, and eight hours after the accident his blood alcohol content was .04. When questioned, Seba was not honest about his birth date and later admitted falsifying information about his name.

On May 15, 2007, the State charged Seba with Class C felony forgery, Class C felony leaving the scene of an accident resulting in death, and Class D felony leaving the scene of an accident causing serious bodily injury. On August 8, 2007, Seba pled guilty

to Class C felony leaving the scene of an accident resulting in death, and the State dismissed the remaining charges. Sentencing was left to the trial court's discretion. The trial court sentenced Seba to eight years in the Department of Correction. This appeal followed.

Analysis

Seba argues that the maximum sentence of eight years is inappropriate. The sentencing range for a Class C felony is between two and eight years, with four years being the advisory sentence. Ind. Code § 35-50-2-6. "Under Indiana Appellate Rule 7(B), this court may revise a sentence that we conclude is inappropriate in light of the nature of the offense and the character of the offender. . . ." Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). When reviewing a sentence under Rule 7(B), we need not be "extremely" deferential to a trial court's sentencing decision. Id. However, Rule 7(B) requires us to give "due consideration" to the trial court's decision because of the unique perspective the trial court brings to its sentencing decisions. Id. "Additionally, a defendant bears the burden of persuading the appellate court that his or her sentence is inappropriate." Id.

Seba fails to convince us that his eight-year sentence is inappropriate. As to the nature of the offense, Seba was driving when a serious accident occurred. That accident killed his friend and injured two other passengers. Rather than summoning police or medical assistance, Seba fled the scene. Although he did help two friends from the vehicle, he left one of the men face down in a nearby ditch. Seba contends that his assistance to the injured passengers should be considered, but we do not think this limited

assistance warrants reconsideration of the sentence. Both Camacho and Escribano were apparently seriously injured, yet Seba still left them on the roadside and fled the scene.

As for his character, Seba has two previous convictions for alcohol related offenses. In 2004, he had a misdemeanor conviction for operating a vehicle with a blood alcohol content of .08 or greater. In 2005, he had a felony conviction for operating a vehicle with a blood alcohol content of .15 or greater. He violated probation following each offense. Seba is an undocumented alien and has been in the United States for six years. He gave a false name and birthday when he was booked at the jail. These circumstances do not reflect well on his honesty or his ability to act within the bounds of the law.

Seba argues that his guilty plea and employment should be given consideration to enhance his character and mitigate the sentence. But even he admits that the trial court “apparently found the guilty plea had minimal weight since it was part of a plea agreement where two other charges were dismissed.” Appellant’s Br. p. 6. The fact that he was employed does not demonstrate such a positive character trait to merit reconsideration of his sentence. Seba does not convince us that the eight-year sentence is inappropriate in light of the nature of the offense and his character.

Conclusion

Seba’s eight-year sentence is not inappropriate in light of the nature of the offense and his character. We affirm.

Affirmed.

NAJAM, J., and KIRSCH, J., concur.