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IN THE
COURT OF APPEALS OF INDIANA

FELECIA M. RORER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A05-1005-CR-293
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0901-FC-14

December 9, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Felecia M. Rorer appeals her sentence following her conviction for battery, as a Class C felony, after a jury trial. Rorer raises a single issue for our review, namely, whether her four-year sentence, with one year suspended and one year probation, is inappropriate in light of the nature of her offense and her character. We affirm.

FACTS AND PROCEDURAL HISTORY[1]

In the early morning hours of September 20, 2008, Robin Littlejohn arrived at Stein's Tavern in Allen County. Littlejohn met some friends there, and they played an electronic bowling game. She obtained a high score and went to place her name on a scoreboard.

Rorer was sitting near the scoreboard and told Littlejohn, "don't come over in this area." Transcript at 92. Littlejohn and Rorer exchanged words for less than a minute, and then Littlejohn went back to get her purse to "get away from the whole situation." Id. at 100. But once Littlejohn turned her back to Rorer, Rorer hit Littlejohn over the head with a full beer mug Rorer was holding in her hand. The blow shattered the mug, leaving only the handle intact. Littlejohn thought the blow "felt kind of like bone shattering . . . [,] just excruciating pain," and she was bleeding profusely. Id. at 94. The bartender ejected Rorer.

Shortly thereafter, police and paramedics arrived. Littlejohn was still bleeding when they arrived, and she was taken to a nearby hospital. She required eight to ten staples to close the gash across the left side of her face and head. Littlejohn has a

[1] The statement of facts provided by Rorer in her brief does not comply with Appellate Rule 46(A)(6)(b).

permanent, visible scar on her cheek, and she was still pulling pieces of glass from her face almost six months later.

On January 16, 2009, the State charged Rorer with battery, as a Class C felony. The court held Rorer's jury trial on March 3. At trial, Rorer pleaded self-defense. The jury found her guilty as charged.

The trial court held Rorer's sentencing hearing on April 26. After hearing arguments from both sides, the court stated as follows:

> This is one of those cases, frequently we have cases that don't make any sense. This one especially doesn't. Candidly, I found the Defendant's witnesses [at the sentencing hearing] quite moving . . . . In fact [I] recognize the fact that there is a hardship on the family, that's always tough to judge. Generally it's a hardship when any member of a family leaves for a period. Her health is not good, she doesn't have a prior significant record. On the other hand, the nature of this offense is extraordinary. And I struggle a little bit too with the same circumstances that [the State] addressed[,] that we did see an entirely different attitude from Ms. Rorer at trial. That she was entirely justified in doing what she did and candidly during that trial I heard very little, if any[,] evidence[] that would justify any kind of provocation or the kind of response that we got . . . [,] which caused severe injury, permanent disfigurement to this lady. . . . Having entered judgment of conviction of Battery, a Class C felony[, on] the jury's verdict, I'll order the Defendant committed to the Indiana Department of Correction for a period of 4 years. Three of that is ordered executed . . . , one year is ordered suspended. One year probation . . . .

Sent. Transcript at 17-18. This appeal ensued.

DISCUSSION AND DECISION

Rorer contends that her four-year sentence, which is the advisory sentence for a Class C felony, is inappropriate in light of the nature of the offense and her character. See Ind. Code § 35-50-2-6(a). 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 her sentence is inappropriate in light of the nature of her offense and her 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). 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).

Rorer's advisory sentence is not inappropriate in light of the nature of her offense. As the trial court stated, Rorer's battery of Littlejohn was "extraordinary" and senseless. Sent. Transcript at 17. With little to no provocation, Rorer struck Littlejohn across the head and face with a full mug of beer, causing the mug to shatter, Littlejohn to have a permanent facial scar, and pieces of glass to be lodged in Littlejohn's face for nearly six months. And, as the trial court properly considered, "the particularized circumstances of the factual elements" of her offense exceeded the facts necessary for the State to convict Rorer. See McCarthy v. State, 749 N.E.2d 528, 539 (Ind. 2001).

Neither is Rorer's sentence inappropriate in light of her character. While the trial court recognized her lack of a prior, significant criminal record, the hardship

incarceration would bear on Rorer's family, and her poor health (and even assuming the trial court was complimenting Rorer for having changed her disposition toward Littlejohn between her trial and sentencing), those mitigating circumstances are balanced by the heinous nature of this offense. Accordingly, Rorer's four-year sentence, with one year suspended and one year probation, is not inappropriate.

Affirmed.

DARDEN, J., and BAILEY, J., concur.