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ATTORNEY FOR APPELLANT:

CRAIG PERSINGER
Marion, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

KARL M. SCHARNBERG
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

VAUGHN HIGHLEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 27A04-1011-CR-710
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE GRANT SUPERIOR COURT
The Honorable Jeffrey D. Todd, Judge
Cause No. 27D01-1007-FB-132

June 13, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Vaughn Highley appeals the twenty-year sentence that was imposed following his convictions for Criminal Confinement,[1] a class B felony, and Battery Resulting in Serious Bodily Injury,[2] a class C felony. Specifically, Highley argues that the sentence was inappropriate pursuant to Indiana Appellate Rule 7(B) because his criminal history did not warrant the imposition of the maximum sentence. Although Highley acknowledges that he has accumulated thirteen misdemeanor and two felony convictions, he maintains that we should revise his sentence to a term of fifteen years.

Concluding that Highley's sentence was not inappropriate, we affirm the judgment of the trial court.

FACTS

Highley and Diana Sears were involved in an "on again, off again romantic relationship" that began in 1990. Appellant's Br. p. 3. On June 21, 2010, Sears's son, John Walsh, was arrested for domestic battery. Sears did not have enough money to pay Walsh's bond, so Highley told Sears that he would pay it.

Highley picked up Sears and drove her to his residence in Marion. When they arrived, Highley told Sears that he would not pay Walsh's bond because Walsh had stolen money from him.

[1] Ind. Code § 35-42-3-3.

[2] I.C. § 35-42-2-1.

Highley became angry and hit Sears in the head and kicked her in the ribs. As a result, Highley was severely bruised and suffered three broken ribs. Highley held Sears at his residence for several days and beat her many times. Highley barricaded and padlocked the door from the outside and refused to let Sears leave the house. Sears was not allowed to use the bathroom because Highley was afraid that she would escape. Thus, Sears had to use a five gallon bucket as a makeshift toilet.

After Walsh eventually bonded out of jail, he went to Highley's house on June 29, 2010. Prior to Walsh's arrival, Highley told Sears to put makeup on her black eye and hide the bruises. Walsh later acknowledged that Sears had an unusually large amount of makeup on one side of her face.

The next day, Aaron Nacke went to Highley's to help repair a motorcycle. Sears managed to escape while the two were working outside. Sears ran to a neighbor's house and called the police. Sears told one of the investigating officers that Highley had held her captive for several days at his residence and that he had beaten her on numerous occasions. Sears was not able to provide much detail about the beatings because Highley had given her pills and alcohol.

When Highley walked back into the house and discovered that Sears was no longer there, he told Nacke that "someone broke in and stole Diana, broken arrow,[3] broken arrow . . . somebody broke in. . . ." Tr. p. 205-06. Highley admitted to Nacke that he had beaten Sears "real bad." Id.

[3] Nacke understood "broken arrow" to be military code meaning that someone had breached the perimeter. Tr. p. 206.

Highley was arrested, and an investigation revealed that Sears suffered three "blowout fractures" to her right orbit "and to the floor as well," as a result of the beatings. Id. at 90. The treating physician determined that "it takes a pretty tremendous amount of force to blow out the bones of your orbit." Id. Sears's jaw was also bruised and three of her ribs were fractured on the right side.

Highley was charged with criminal confinement, a class B felony, battery resulting in serious bodily injury, a class C felony, and intimidation, a class D felony. Following a jury trial that concluded on September 15, 2010, Highley was found guilty as charged.

On October 4, 2010, Highley was sentenced to twenty years of incarceration for criminal confinement that was ordered to run concurrently with three years of imprisonment for intimidation. The trial court vacated Highley's battery conviction in light of double jeopardy concerns.

In arriving at the sentence, the trial court identified Highley's extensive criminal history that included sixteen prior convictions and three probation violations, as an aggravating factor. Highley's criminal history included previous convictions for criminal confinement and battery. Highley now appeals.

DISCUSSION AND DECISION

When addressing a Rule 7(B) appropriateness challenge, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). The sentence for a class B felony ranges from a

minimum of six years to a maximum of twenty years, with ten years as the advisory sentence. Ind. Code § 35-50-2-4. Our Supreme Court has determined that the imposition of the maximum sentence "should be reserved for the very worst offenses and offenders." Johnson v. State, 830 N.E.2d 895, 898 (Ind. 2005).

As for the nature of the offenses, the record shows that Highley lured Sears into his home under false pretenses, claiming that he would post her son's bond, when he never had any intention of doing so. Tr. p. 123. Highley held Sears against her will at his residence for nearly five days. Id. at 68, 102, 247. Highley beat Sears on many occasions during the confinement and he barricaded and locked the door to prevent her from leaving. Id. at 128-29, 172, 201. Sears suffered so much pain that she could not raise any of the windows in the residence to escape. Id. at 128-29.

As noted above, Sears was forced to use a five-gallon bucket as her bathroom. Id. at 129, 132. Highley also isolated Sears from her family and refused to allow her to speak to them on the telephone. He also ordered Sears to wear makeup and cover the bruises when her son came to the residence. Id. at 139, 171, 173.

In essence, Highley argues that his criminal history does not indicate a character deserving of the twenty-year sentence that was imposed. However, the record demonstrates that his criminal history commenced when he was sixteen years old. Since that time, Highley has accumulated sixteen additional convictions. Two of those convictions were for criminal confinement and battery resulting in serious bodily injury. Highley has also violated his probation on three separate occasions. PSI at 4-5.

The probation department noted that "The Courts have sentenced [Highley] to prison, jail, and probation. [Highley] has been ordered to complete multiple alcohol/drug programs, complete a psychological evaluation, and has had his license suspended." Id. at 6. Highley continues to commit offenses and it appears from the evidence that he still is involved with drugs and alcohol. Tr. p. 136. Moreover, Highley blamed Sears for the offenses, claiming that she "hallucinates." PSI at 10. Highley also has a history of anger and violence and serious alcohol problems. Id. at 10, 14.

In short, the evidence demonstrates that Highley's character is uniformly poor. Both the nature of the offense and his character warrant the imposition of an enhanced sentence. As a result, we find that the twenty-year aggregate sentence for criminal confinement and intimidation is not inappropriate in this case.

The judgment of the trial court is affirmed.

MAY, J., and BRADFORD, J., concur.