



## STATEMENT OF THE CASE

Appellant-Defendant, Antoine Jefferson (Jefferson), appeals his sentence for robbery resulting in bodily injury, a Class B felony, Ind. Code § 35-42-5-1.

We affirm.

## ISSUE

Jefferson presents a single issue: Whether his sentence is inappropriate.

## FACTS AND PROCEDURAL HISTORY

On the morning of March 24, 2008, Tamara Opalka (Opalka) was walking in the parking lot at her place of employment in Indianapolis, Indiana. As she walked past a black male in a hooded jacket, she was struck and fell to the ground. Her attacker took her purse and ran. Opalka suffered a laceration under her left eye that required ten to twelve stitches, her nose was broken, her lip was split “all the way through from right below [her] nose,” and, as a result of hitting the ground, her “four front teeth were pushed all the way back to the middle of the roof of [her] mouth and separated from the bone.” (Transcript p. 28). Opalka also had nerve damage to her wrist that required physical therapy.

The subsequent use of the credit cards from Opalka’s purse led police to a woman named Lola Brame (Brame). Brame initially told police that she was given a credit card by Jefferson, who was her roommate, but that she did not know where he had gotten it. Brame then changed her story and said that she had been with Jefferson one morning when he exited their car and came running back after several minutes with a brown purse under his coat.

On May 22, 2008, the State filed an Information charging Jefferson with robbery resulting in bodily injury, a Class B felony, I.C. § 35-42-5-1. On December 11, 2008, Jefferson signed a plea agreement by which he would plead guilty as charged and the executed portion of his sentence would be limited to six years. On December 19, 2008, the trial court held a guilty plea hearing. During the hearing, Jefferson denied having committed the robbery himself but admitted to riding to the scene with the attacker, letting the attacker use his hooded coat, and taking some things from Opalka's purse following the robbery.<sup>1</sup> As such, he acknowledged that he was guilty as an accomplice. On December 23, 2008, the trial court held a sentencing hearing and sentenced Jefferson to ten years: six years executed at the Indiana Department of Correction (DOC) and four years suspended, with two of those four years on probation.

Jefferson now appeals. Additional facts will be provided as necessary.

### DISCUSSION AND DECISION

Jefferson argues that his sentence is inappropriate. Jefferson pled guilty to Class B felony robbery, for which the statutory maximum sentence is twenty years and the statutory advisory sentence is ten years. *See* I.C. § 35-50-2-5. However, his plea agreement capped the executed portion of his sentence at six years. As just noted, the trial court imposed the advisory sentence of ten years, with six years executed in the DOC and four years suspended (two on probation). Indiana Appellate Rule 7(B) permits us to revise a sentence if, after due

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<sup>1</sup> Jefferson did not identify the alleged attacker by name during the guilty plea hearing. During his sentencing hearing, he said that the attacker's name was "Robert" but that he did not know his last name. (Tr. p. 42).

consideration of the trial court's decision, we find that the sentence is inappropriate in light of the nature of the offense and the character of the offender. *See* Ind. Appellate Rule 7(B); *see also Childress v. State*, 848 N.E.2d 1073, 1079 (Ind. 2006). The burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. *Childress*, 848 N.E.2d at 1080. Jefferson has failed to carry this burden.

As for the nature of the offense, Opalka suffered terrible facial injuries as a result of the robbery. The fact that Jefferson admitted only to being an accomplice does not lessen his culpability. *See McQueen v. State*, 711 N.E.2d 503, 506 (Ind. 1999) (“[T]here is no distinction between the criminal responsibility of a principal and that of an accomplice.”). With regard to Jefferson's character, he committed Class D felony criminal recklessness in St. Joseph County while this case was pending. In light of these facts, we cannot say that the advisory sentence of ten years, with only the minimum sentence of six years to be executed, is inappropriate.

#### CONCLUSION

Based on the foregoing, we conclude that Jefferson's sentence is not inappropriate.

Affirmed.

BAKER, C.J., and FRIEDLANDER, J., concur.