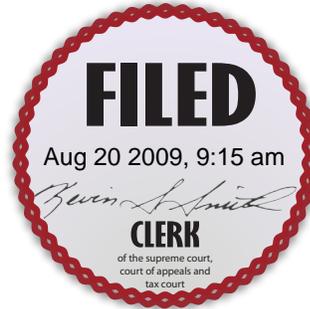


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

BRIAN BOWEN,)
)
Appellant-Defendant,)
)
vs.) No. 34A05-0902-CR-94
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE HOWARD SUPERIOR COURT
The Honorable George A. Hopkins, Judge
Cause No. 34D04-0809-FD-212

AUGUST 20, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Brian Bowen appeals the sentence imposed after he pled guilty to Auto Theft, a Class D felony. We affirm.

ISSUE

Bowen raises one issue for our review, which we restate as: Whether the sentence imposed was inappropriate in light of the nature of the offense and the character of the offender.

FACTS AND PROCEDURAL HISTORY

On the evening of August 20, 2008, an intoxicated Bowen stole a vehicle from the driveway of the victim's Howard County home. Bowen drove the vehicle to his sister's house and told his sister that he had stolen the vehicle. Bowen's sister went out to look at the vehicle and noticed mail inside that was addressed to the victim.

The next morning, Bowen gave the vehicle to someone he did not know. Two weeks later, the vehicle was discovered in Speedway, Indiana.

Bowen was subsequently arrested and pled guilty to theft. He was sentenced to three years' incarceration with six months suspended to probation.¹ He now appeals.

DISCUSSION AND DECISION

When evaluating sentencing challenges under the advisory sentencing scheme, we first confirm that the trial court issued the required sentencing statement, which includes a reasonably detailed recitation of the trial court's reasons for imposing a particular

¹ Ind. Code § 35-50-2-7 states that a person who commits a Class D felony "shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 ½) years."

sentence. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). If the recitation includes a finding of mitigating or aggravating circumstances, the statement must identify all significant mitigating and aggravating circumstances and explain why each circumstance has been determined to be mitigating or aggravating. *Id.*

So long as the sentence is within the statutory range, it is subject to review only for abuse of discretion. *Id.* An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom. *Id.* One way in which a trial court may abuse its discretion is failing to enter a sentencing statement at all. *Id.* Another example includes entering a sentencing statement that explains reasons for imposing a sentence, including mitigating and aggravating circumstances, which are not supported by the record. *Id.* at 490-91. A court may also abuse its discretion by citing reasons that are contrary to law. *Id.* at 491.

Bowen contends that the trial court gave too much weight to his criminal history in determining his sentence. However, an appellant may no longer challenge the weight that a trial court assesses for statutorily authorized aggravators. *Id.* We thus turn to Bowen's Rule 7(B) argument.

A sentence authorized by statute will not be revised unless the sentence is inappropriate in light of the nature of the offense(s) and the character of the offender. Indiana Appellate Rule 7(B). We must refrain from merely substituting our opinion for that of the trial court. *Sallee v. State*, 777 N.E.2d 1204, 1216 (Ind. Ct. App. 2002), *trans.*

denied. In determining the appropriateness of a sentence, a court of review may consider any factors appearing in the record. *Roney v. State*, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), *trans. denied.*

Here, Bowen fails to make a cogent argument regarding the nature of the offense and the character of the offender. Accordingly, he has waived the issue for review. *See Gentry v. State*, 835 N.E.2d 569, 576 (Ind. Ct. App. 2005).

Waiver notwithstanding, we hold that the sentence is appropriate. With regard to the nature of the offense, we note that Bowen entered the victim's property in the middle of the night to steal her vehicle. He then drove the vehicle while under the influence of alcohol, and though he was supposedly "guilt stricken," he gave the vehicle to someone other than the victim. With regard to Bowen's character, we note that he has a criminal history spanning more than fifteen years. He has three prior arrests for theft-related offenses, eight known prior convictions, with three apparent felony convictions. He has been arrested in four different states.

The nature of the offense and the character of the offender, whether combined or taken separately, support the trial court's imposition of a three-year sentence. Bowen's illegal entry upon the victim's property, the taking of her vehicle, and the driving of her vehicle while under the influence of alcohol are all too familiar parts of Bowen's life, and they add to the negative reflection of his habitually criminal character.

Affirmed.

ROBB, J., and MATHIAS, J., concur.