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FILED
Dec 02 2011, 8:18 am
CLERK
of the supreme court, court of appeals and tax court

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IN THE
COURT OF APPEALS OF INDIANA

BILLY JACK STEELE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 15A01-1104-CR-194
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE DEARBORN CIRCUIT COURT
The Honorable James D. Humphrey, Judge
Cause No. 15C01-1012-FC-42

December 2, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Billy Jack Steele ("Steele") appeals his eight-year sentence for Robbery, as a Class C felony,[1] presenting the sole issue of whether his sentence is inappropriate. We affirm.

Facts and Procedural History

On December 1, 2010, Steele robbed a bank in Aurora, Indiana. He was apprehended while still in possession of bank money, and charged with Robbery, as a Class C felony, and Theft, as a Class D felony. On March 9, 2011, Steele pled guilty to Robbery and the Theft charge was dismissed.

The trial court conducted a sentencing hearing on April 11, 2011. Steele's sentence was pronounced on April 19, 2011. The trial court found as a mitigating circumstance that Steele had pled guilty, but went on to observe that the evidence against him was overwhelming and one charge had been dismissed. The trial court considered Steele's argument that his incarceration would result in hardship to his three children, but gave the circumstance minimal weight because Steele's parents were assisting in rearing two of his children and Steele had been absent from their lives due to incarceration. The trial court found Steele's criminal history and probation violations to be aggravating, as well as the significant psychological harm to the bank teller who had been robbed. Steele was sentenced to eight years imprisonment. He now appeals.

Discussion and Decision

Upon conviction of a Class C felony, Steele faced a sentencing range of two years to eight years, with the advisory sentence being four years. See Ind. Code § 35-50-2-6. He

[1] Ind. Code § 35-42-5-1.

claims that he should have received an eight-year sentence with four years suspended to probation so that he can receive "a chance to show he can rehabilitate himself." Appellant's Brief at 3. He directs our attention to the absence of evidence that he used a weapon during the robbery and also claims that the robbery was motivated solely by his desire to provide Christmas presents for his children.

"So long as the sentence is within the statutory range, it is subject to review only for abuse of discretion." Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007). This includes the finding of an aggravating circumstance and the omission to find a proffered mitigating circumstance. Id. at 490-91. When imposing a sentence for a felony, the trial court must enter "a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence." Id. at 491.

The trial court's reasons must be supported by the record and must not be improper as a matter of law. Id. However, a trial court's sentencing order may no longer be challenged as reflecting an improper weighing of sentencing factors. Id. A trial court abuses its discretion if its reasons and circumstances for imposing a particular sentence are 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. Hollin v. State, 877 N.E.2d 462, 464 (Ind. 2007). Here, the trial court recognized that Steele had been living with two of his children, but further observed that Steele had been absent for a long time because of prior incarceration and that his parents had been assisting in rearing the children. The absence of a

weapon was not found to be a mitigating circumstance, in that Steele had been charged with a lesser felony because no weapon was used. To the extent that Steele now urges reweighing of the mitigating circumstances, the argument is unavailable to him. Anglemyer, 868 N.E.2d at 491.

Under Indiana Appellate Rule 7(B), this "Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." In performing our review, we assess "the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." Cardwell v. State, 895 N.E.2d 1219, 1224 (Ind. 2008). A defendant '"must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review."' Anglemyer, 868 N.E.2d at 494 (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)).

As for the nature of the offense, Steele entered a bank and demanded that the teller hand over the money within five seconds. The teller considered the robbery "the scariest thing" that had ever happened to her, in part because she was unaware that Steele was unarmed. (Tr. 54.) After the robbery, she lost focus on her college schoolwork, had problems sleeping, and began to carry mace and compulsively lock doors. She remained frightened when performing her job as a teller or staying home alone.

As to the character of the offender, Steele pled guilty, which reflects favorably on his character. See Scheckel v. State, 655 N.E.2d 506, 511 (Ind. 1995) ("[T]he fact that [the

defendant] pled guilty demonstrates his acceptance of responsibility for the crime and at least partially confirms the mitigating evidence regarding his character"). However, the decision may have been largely pragmatic, as Steele was apprehended in possession of the bank's money and then confessed to the robbery. See Abrajan v. State, 917 N.E.2d 709, 713 (Ind. Ct. App. 2009) (recognizing the lessened significance of a guilty plea that is "purely pragmatic.")

Steele has a substantial criminal history. He has had seven criminal convictions, two of them felonies. In 2008, he was convicted of bank robbery and sentenced to six years imprisonment with two years suspended to probation. He was on probation when he committed the instant offense. He also had two prior violations of probation. Steele's history indicates a willingness to take the property of others by the use of force and further demonstrates an inability to benefit from rehabilitative efforts.

In sum, there is nothing in the nature of the offense or the character of the offender to persuade us that the eight-year sentence is inappropriate.

Affirmed.

BAKER, J., and BROWN, J., concur.