

Appellant-defendant Diana Lynn Groves appeals the aggregate three-year sentence imposed by the trial court after she pleaded guilty to seven counts of Theft,¹ a class D felony. Groves contends that the sentence is inappropriate in light of the nature of the offenses and her character. Finding no error, we affirm.

FACTS

During July, August, and September 2006, Groves represented to seven different women that she operated an adoption agency. She promised to facilitate the adoption of infants for the women and took a total of \$14,545 and a \$50 gift card from the victims, representing that the money would be used to provide prenatal medical care and expenses to the pregnant women who would allegedly be placing their babies for adoption. Six of the victims had been trying to adopt a child for a significant period of time. In fact, Groves did not operate or work for an adoption agency and did not use the victims' money for that purpose.

On April 27, 2007, the State charged Groves with seven counts of class D felony theft and alleged that she was a habitual offender. On October 5, 2007, Groves filed a notice of defense of mental disease or defect and the trial court ordered that she undergo a mental examination. On November 30, 2007, psychologist Matt Oliver filed his findings and evaluation with the trial court. Among other things, Oliver stated that "Groves understood what she was doing in her actions to 'facilitate' adoption services and was

¹ Ind. Code § 35-43-4-2.

free from mental impairment or defect that would otherwise impair her ability to understand the wrongfulness or rightfulness of her actions.” PSI p. 1-2.

On January 9, 2008, Groves and the State entered into a plea agreement pursuant to which Groves agreed to plead guilty to seven counts of class D felony theft in exchange for the State’s agreement to dismiss the habitual offender allegation. The plea agreement further provided that although the sentence would be left “open” to the trial court’s discretion, all sentences would be served concurrently. Appellant’s App. p. 95. The trial court held a sentencing hearing on February 1, 2008, and found Groves’s guilty plea and “emotional stress” as mitigating factors. Tr. p. 149. It found her criminal history and the nature and circumstances of the crimes as aggravators, emphasizing that “this is, I think, one [of the] cruelest crimes that I’ve considered in almost twenty (20) years as a judge.” Id. at 150-51. The trial court found that the aggravators “far outweighed” the mitigators and imposed three-year sentences on each of the seven convictions, to be served concurrently as specified by the plea agreement. Id. at 151. Groves now appeals.

DISCUSSION AND DECISION

Groves’s sole argument on appeal is that the aggregate three-year sentence imposed by the trial court is inappropriate in light of the nature of the offenses and her character pursuant to Indiana Appellate Rule 7(B). In reviewing 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).

Indiana Code section 35-50-2-7 provides that the advisory sentence for a class D felony is one and one-half years imprisonment, with a minimum of six months and a maximum of three years. Here, the trial court imposed maximum three-year terms for each of Groves's convictions.

Turning first to the nature of the offenses, we note that Groves lied to seven different women, taking their money and cruelly raising their hopes about adopting a child. At the sentencing hearing, the trial court quoted from some of the victims' statements:

["to have that hope [of adoption] shattered in such a way was absolutely devastating. The whole situation being of fraud and the process of discovering it was just that, was more stressful than we can put into words. My work suffered tremendously. We felt robbed of the freedom to feel hopeful and joyful. The grief Diana caused was real and intense.["] Another letter, another victim expressing her hope of having a baby, ["the emotional damage we suffered was much worse than any money we could have lost.["] Another victim, another letter, ["she has violated my sense of security and trust with another human being.["] One of the sentences from [another victim] I think summarizes much of what I read from the victims in these victim impact statements[: "Diana ripped our hearts out, she crushed our family, she stole our hopes, she stole our dreams.["]

Tr. p. 151. We do not find that the nature of the offenses aids Groves's inappropriateness argument.

As for Groves's character, we observe that her criminal history includes convictions for class A misdemeanor theft, class D felony theft, violation of probation, three counts of class A misdemeanor check deception, violation of a custody order, class D felony failure to appear, an out-of-state conviction for misdemeanor theft, and after pleading guilty herein, Groves pleaded guilty in a separate action to class C felony neglect of a dependent. This lengthy and substantial criminal history reveals that Groves has little respect for the rule of law or her fellow citizens and that she has not taken advantage of the multiple chances afforded to her by the judicial system in the past.

Groves argues that we should take her alleged mental illness into account. There is no evidence in the record, however, supporting a conclusion that Groves is mentally ill. The psychologist who evaluated her at the trial court's request concluded that Groves understood what she was doing when she committed these crimes and that she comprehended the wrongfulness of her actions. We decline to second-guess the trial court's assessment of Groves's mental health:

[t]here has [sic] been assertions and some evidence that you have been experiencing emotional stress and I will accept that as a mitigating factor as well. I concur with [the State] that there has been no evidence indicating that that has risen to a level of a [mental defect] defense but I will agree that there has been emotional, if not mental, distress, although not rising to a level of a defense, so I am accepting those arguments and I am considering those as factors of mitigation.

Tr. p. 149.

Groves also emphasizes her acceptance of responsibility and guilty plea. While we acknowledge, as did the trial court, that Groves's guilty plea qualifies as a mitigator, we also note that Groves reaped a substantial benefit as a result of her plea. Not only did the State dismiss its habitual offender allegation, it also agreed that her sentences would be served concurrently. Our Supreme Court has commented that "when the perpetrator commits the same offense against [multiple] victims, enhanced and consecutive sentences seem necessary to vindicate the fact that there were separate harms and separate acts against more than one person." Serino v. State, 798 N.E.2d 852, 857 (Ind. 2003) (emphasis added). Therefore, were it not for the concurrent sentencing term included in the plea agreement, the trial court could have imposed consecutive terms and Groves would be facing a potential aggregate sentence of twenty-one, rather than three, years imprisonment. Under these circumstances, therefore, we do not find that her guilty plea renders the sentence imposed by the trial court inappropriate. Given the malicious nature of the offenses and Groves's lengthy criminal history, we find that the aggregate three-year sentence imposed by the trial court is not inappropriate.

The judgment of the trial court is affirmed.

MATHIAS, J., and BROWN, J., concur.