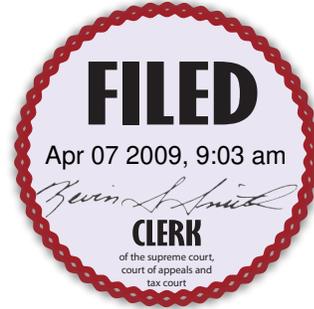


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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JAMES WOODY, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 49A02-0807-CR-601

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Amy Barbar, Judge Pro-Tempore  
Cause No. 49G22-0802-FC-035953

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**April 7, 2009**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

James Woody (“Woody”) pleaded guilty in Marion Superior Court to Class C felony operating a motor vehicle while privileges are forfeited for life and Class A misdemeanor failure to stop after an accident resulting in personal injury. Woody was sentenced to an aggregate term of eight years executed. Woody appeals, arguing that his sentence was improperly enhanced to the maximum sentence allowed and that his sentence was inappropriate under the nature of the offenses and the character of the offender.

We affirm.

### **Facts and Procedural History**

On February 8-9, 2008, Woody was intoxicated near the Indianapolis Airport. While intoxicated, Woody rear-ended a rental vehicle injuring the occupants. The occupants were both from Illinois. Woody fled on foot to a nearby hotel. When the police arrived, the officer was directed to the hotel where Woody was found. The officer ran Woody’s license and found that he had a lifetime forfeiture of his operator’s license. The officer arrested Woody.

On February 9, 2008, the State charged Woody with Class D felony operating a motor vehicle while a habitual traffic violator, Class A misdemeanor failure to stop after an accident resulting in personal injury, Class B misdemeanor public intoxication, and Class C misdemeanor failure to stop after an accident resulting in property damage. On February 21, 2008, the State added a charge of Class C felony operating a motor vehicle while privileges are forfeited for life. On May 27, 2008, Woody pleaded guilty to Class C felony operating a motor vehicle while privileges are forfeited for life and Class A

misdemeanor failure to stop after an accident resulting in personal injury. The remaining charges were dismissed and sentencing was left to the discretion of the trial court. On June 10, 2008, the trial court sentenced Woody to an aggregate term of eight years, executed. Woody appeals.

### **Discussion and Decision**

First, Woody argues that the trial court abused its discretion in sentencing him to the maximum executed sentence. Specifically, Woody complains that he did not expect to be sentenced to the maximum sentence when he decided to plead without a sentence cap or recommendation to the trial court. Woody claims that if he had known his sentence then he would not have pleaded without a sentence cap or recommendation. It appears that Woody would like this court to hold that a maximum sentence on an open plea is per se an abuse of discretion. This we will not do.

Woody readily admits that the trial court's sentence was within its discretion, yet seeks to make a policy argument related to the sentencing statute. Appellant's Br. p. 14, n. 6. Such policy arguments are more properly addressed to the Indiana General Assembly who is responsible for the promulgation of sentencing statutes.

Next, Woody argues that his sentence is inappropriate in light of the nature of the offense and the character of the offender. A defendant may challenge his sentence under Indiana Appellate Rule 7(B) which provides: "The 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." The Anglemyer Court explained:

It is on this basis alone that a criminal defendant may now challenge his or her sentence where the trial court has entered a sentencing statement that includes a reasonably detailed recitation of its reasons for imposing a particular sentence that is supported by the record, and the reasons are not improper as a matter of law, but has imposed a sentence with which the defendant takes issue.

Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007). “[A] defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review.”

Id.

Woody fled the scene of the accident that injured a passenger in the other vehicle. Woody is extremely fortunate that the accident he caused did not result in more serious injuries or death, and it did result in the significant damage to the rental vehicle driven by the victims.<sup>1</sup>

As to his character, Woody has an extensive criminal history. In addition to amassing twelve felony convictions related to drinking and driving, Woody was also on parole from his latest Class D felony operating a vehicle after license forfeited for life at the time of these offenses.<sup>2</sup> Woody has been given many opportunities to receive treatment, yet has failed to take full advantage of these treatments. It appears to us that he has an utter lack of respect for the legal system, for his fellow citizens, and for himself. Woody’s sentence is not inappropriate based on the character of the offender and the nature of the offense.

Affirmed.

BAILEY, J., and BARNES, J., concur.

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<sup>1</sup> The trial court entered a restitution order in the amount of \$12,534.97 for damage to the rental vehicle.

<sup>2</sup> The full extent of Woody’s criminal history is unknown to us because his pre-sentence investigation report was not included in the materials submitted on appeal. In an appeal regarding an alleged error in sentencing, the pre-sentence investigation report is an invaluable aid.