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**IN THE  
COURT OF APPEALS OF INDIANA**

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JURAN CAMPBELL, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 48A05-0812-CR-702  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE MADISON SUPERIOR COURT  
The Honorable Thomas Newman, Jr., Judge  
Cause No. 48D03-0712-FC-374

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**April 21, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

## **Case Summary**

Juran Campbell (“Campbell”) appeals his sentence and the trial court’s denial of his request for education credit time. We affirm.

## **Issues**

Campbell raises two issues, which we restate as:

- I. Whether the trial court erred in denying Campbell’s request for education credit time; and
- II. Whether the trial court abused its discretion in sentencing him.

## **Facts and Procedural History**

Campbell worked for a landscaping company operated by friends of his family. Being an employee and family friend, he had been inside the owners’ home and had access to the business checks. He took three of the company’s checks and gave them to others who negotiated them on different days in Anderson, Indiana for \$2000, \$5500, and \$4000.

In December 2007, the State charged Campbell with three counts of Forgery, as a Class C felony. While incarcerated, he passed the test of General Education Development (“GED”). He pled guilty in August 2008 to three reduced counts of Theft, as a Class D felony.

The trial court found no mitigating circumstances, but one aggravating circumstance, “the fact the defendant violated a position of personal and fiduciary trust.” Appendix at 14. For the respective offenses, the trial court sentenced Campbell to terms of eighteen months, eighteen months, and one year – to be served consecutively at the Madison County Work

Release Facility for an aggregate term of four years. It stated, “[t]he Court will not give the defendant credit for receiving his GED while incarcerated.” Id.

Campbell now appeals.

## **Discussion and Decision**

### **I. Education Credit Time**

Campbell received his GED while incarcerated before pleading guilty. He argues that the trial court erred in denying his request for education credit time. The State responds by arguing that the trial court was not the appropriate entity to make this determination. We agree.

Campbell argues that Robinson v. State requires the trial court to determine education credit time. In Robinson, however, our Supreme Court held that “a trial court’s sentencing judgment must report not only the number of days confined while imprisoned before sentence but also must separately designate the credit time earned for the said period of confinement,” but it did not address what entity should consider a request for education credit time. Robinson v. State, 805 N.E.2d 783, 794 (Ind. 2004).

This Court has held that the Department of Correction or the jailing authority, not a trial court, is the proper entity to consider a request for education credit time pursuant to Indiana Code Section 35-50-6-3.3. Sander v. State, 816 N.E.2d 75, 78 (Ind. Ct. App. 2004). The Sander Court reasoned that an incarcerating entity, not a trial court, was best situated to assess one of the statutory elements – the disciplinary record of the person during his educational program. Accordingly, the Sander Court concluded that, “application for

educational credit time must be made to and the initial ruling thereon made by the DOC when the educational achievement was accomplished after sentencing, and by the jailing authority in cases where the educational achievement was accomplished while confined prior to sentencing.” Id. See also Watkins v. State, 869 N.E.2d 497, 500 (Ind. Ct. App. 2007) (concluding that post-conviction court lacked subject matter jurisdiction to consider petition for education credit time). Based upon the authority of Sander and Watkins, we conclude that the trial court did not err in denying Campbell’s request for education credit time.

## II. Sentence

### A. Standard of Review

Second, Campbell argues that the trial court abused its discretion in failing to find his guilty plea and his lack of a prior criminal history as mitigating circumstances. He adds that “[t]he mitigation in this case outweighs the one aggravator cited by the trial court, therefore making consecutive sentences inappropriate.” Appellant’s Brief at 12. However, a trial court’s sentencing order may no longer be challenged as reflecting an improper weighing of sentencing factors. Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

“So long as the sentence is within the statutory range, it is subject to review only for abuse of discretion.” Id. at 490. This includes the finding of an aggravating circumstance and the omission to find a proffered mitigating circumstance. Id. at 490-91; and Hollin v. State, 877 N.E.2d 462, 464 (Ind. 2007). “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.” Anglemyer, 868 N.E.2d at 490 (quoting K.S. v. State, 849 N.E.2d 538, 544 (Ind. 2006)).

When imposing 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. Its reasons must be supported by the record and must not be improper as a matter of law. Id. Where a sentence fails to meet the above standards, we may remand for resentencing “if we cannot say with confidence that the trial court would have imposed the same sentence had it properly considered reasons that enjoy support in the record.” Id.

“The imposition of consecutive sentences is a separate and discrete decision from sentence enhancement, although both may be dependent upon the same aggravating circumstances.” Mathews v. State, 849 N.E.2d 578, 589 (Ind. 2006) (citing Ajabu v. State, 722 N.E.2d 339, 343 (Ind. 2000)). “[B]efore a trial court can impose a consecutive sentence, it must articulate, explain, and evaluate the aggravating circumstances that support the sentence.” Monroe v. State, 886 N.E.2d 578, 580 (Ind. 2008).

## B. Analysis

Eight months after the State charged Campbell with three Class C felonies, he pled guilty to three Class D felonies. “[A] guilty plea may not be significantly mitigating when the defendant receives a substantial benefit in return.” McElroy v. State, 865 N.E.2d 584, 591 (Ind. 2007). Clearly, Campbell received some benefit for pleading guilty. Furthermore, a trial court is neither obligated to find a circumstance to be mitigating simply because it was

proffered by the defendant, nor to explain why it found that the factor did not exist. Highbaugh v. State, 773 N.E.2d 247, 252 (Ind. 2002); and Anglemyer, 868 N.E.2d at 493 (quoting Fugate v. State, 608 N.E.2d 1370, 1374 (Ind. 1993)).

Meanwhile, contrary to Campbell's assertion on appeal that "he had no prior criminal history," he, in fact, admitted to having been on probation as a juvenile in Hamilton County. Appellant's Br. at 11. His presentence investigation report stated that he was arrested for Assault and Battery and Criminal Mischief. In addition, Campbell admitted to being a member of the Vice Lords gang as a youth. Based upon this record, we cannot conclude that the trial court abused its discretion in omitting to find his guilty plea or his criminal record as a significant mitigating circumstance.

Finally, Campbell makes passing references to our authority to review and revise sentences under Indiana Appellate Rule 7(B) without developing his argument. The issue is therefore waived. Majors v. State, 773 N.E.2d 231, 235 n.2 (Ind. 2002); Ind. Appellate Rule 46(A)(8)(a). Waiver notwithstanding, we do not consider his sentence to be inappropriate. The owner of the landscaping company and her husband each testified at the sentencing hearing about the impact Campbell's conduct had caused, including litigation, financial hardship, significant difficulty in their marriage, and a negative impact on their children. Campbell took their property despite his and his family's close relationship with them, as well as the financial and logistical support they had afforded him, such as meals and rides to work. 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)). Campbell has not persuaded us that his sentence was inappropriate.

### **Conclusion**

The trial court did not err in denying Campbell's request for education credit time. Furthermore, it did not abuse its discretion in sentencing him.

Affirmed.

DARDEN, J., and ROBB, J., concur.