



Michael Burton appeals the sentence imposed after he pleaded guilty to dealing in methamphetamine as a class B felony. We affirm.

The sole issue for our review is whether the trial court erred in sentencing Burton.

In November 2007, the State charged 52-year-old Burton with dealing in methamphetamine as a class A felony after he sold .55 grams of methamphetamine to a confidential informant within 1000 feet of school property. The State had both audio and video recordings of the transaction. Burton pleaded guilty to dealing in methamphetamine as a class B felony, and the State agreed to leave sentencing to the trial court's discretion with a cap of twelve years. Following a sentencing hearing, the trial court found that Burton's medical condition was a mitigating factor, and his prior criminal history, including two prior convictions for dealing in methamphetamine as class B felonies, was an aggravating factor. Burton was on home detention for those offenses when he committed the offense in this case. The trial court sentenced Burton to ten years, and he appeals.

Burton's sole contention is that the trial court erred in sentencing him. Because the offenses in this case were committed after the April 25, 2005, revisions to the sentencing statutes, we review Burton's sentence under the advisory sentencing scheme. *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007). 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 sentence. *Id.* at 490. If the recitation includes a finding of aggravating or mitigating 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 in 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 aggravating and mitigating factors, which are not supported by the record. *Id.* at 490-91.

Because the trial court no longer has any obligation to weigh aggravating and mitigating factors against each other when imposing a sentence, a trial court cannot now be said to have abused its discretion in failing to properly weigh such factors. *Id.* at 491. This is so because once the trial court has entered a sentencing statement, which may or may not include the existence of aggravating and mitigating factors, it may then impose any sentence that is authorized by statute and permitted under the Indiana Constitution. *Id.*

Burton first argues that the trial court failed to consider his medical condition, which includes seven fused vertebra, a heart condition, and seizures, as a mitigating circumstance. However, our review of the evidence reveals that the trial court did consider Burton's medical condition to be a mitigator. Burton's argument that the trial

court erroneously weighed this mitigator is not available under the advisory sentencing scheme. *See Anglemyer*, 868 N.E.2d at 491.

Burton also argues that the trial court failed to consider his guilty plea to be a mitigating factor. However, a guilty plea does not automatically amount to a significant mitigating factor. *Sensback v. State*, 720 N.E.2d 1160, 1165 (Ind. 1999). For example, a guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him is such that the decision to plead is merely a pragmatic one. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*. Here, Burton received the benefit of a class A felony being reduced to a class B felony. In addition, the State had both audio and video recordings of the offense. Burton's decision to plead guilty was clearly a pragmatic one. We find no error.

Lastly, Burton argues that his sentence is inappropriate. When reviewing a sentence imposed by the trial court, we “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. Ind. Appellate Rule 7(B).

Here, with regard to the character of the offender, Burton has a prior criminal history that includes two class B felony convictions for dealing methamphetamines and was on house arrest for those convictions when he committed the offense in this case. Burton's prior contacts with the law did not cause him to reform himself. With regard to the nature of the offense, Burton sold drugs within 1000 feet of a school. Based upon our

review of the evidence, we see nothing in the character of this offender or in the nature of this offense that would suggest that Burton's ten-year sentence is inappropriate.

Affirmed.

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