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IN THE
COURT OF APPEALS OF INDIANA

JAMUS T. NEAL, SR.,	)	
	)	
Appellant- Defendant,	)	
	)	
vs.	)	No. 84A01-0901-CR-9
	)	
STATE OF INDIANA,	)	
	)	
Appellee- Plaintiff,	)	

APPEAL FROM THE VIGO SUPERIOR COURT
The Honorable David R. Bolk, Judge
Cause Nos. 84D03-0805-FA-1618
84D03-0807-FC-2292

July 7, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issue

Jamus Neal, Sr. appeals the eighteen-year sentence imposed following his guilty plea to one count of dealing in cocaine, a Class B felony, and one count of battery resulting in serious bodily injury, a Class C felony. For our review, Neal raises a single issue: whether the trial court abused its discretion by not finding Neal's guilty plea to be a mitigating circumstance. Concluding the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

On May 8, 2008, the State charged Neal with two counts of dealing in cocaine, both Class A felonies. The charges stemmed from two controlled buys conducted by police through the use of a confidential informant. While in jail awaiting trial on the charges, Neal stabbed a fellow inmate with a sharpened toothbrush. As a result, the State charged Neal with one count of battery resulting in serious bodily injury, a Class C felony, on July 10, 2008.

On November 10, 2008, Neal entered into a plea agreement, whereby he agreed to plead guilty to one count of dealing in cocaine, reduced to a Class B felony, and one count of battery resulting in serious bodily injury, a Class C felony. In return the State agreed to dismiss the remaining Class A felony dealing in cocaine charge. The agreement left sentencing to the discretion of the trial court, but required that the sentences be served consecutively and the executed portion of the sentence not exceed eighteen years.

The trial court held a sentencing hearing on December 8, 2008, after which it found Neal's criminal history to be a substantial aggravating factor. The trial court found no mitigating factors and sentenced Neal to thirteen years for the Class B felony and five years for the Class C felony. Neal now appeals.

Discussion and Decision

I. Standard of Review

We engage in a multi-step process when evaluating a sentence. Anglemyer v. State, 868 N.E.2d 482, 491 (Ind. 2007), clarified on reh'g, 875 N.E.2d 218 (2007). First, the trial court must issue a sentencing statement that includes "reasonably detailed reasons or circumstances for imposing a particular sentence." Id. Second, the reasons or omission of reasons given for choosing a sentence are reviewable on appeal for an abuse of discretion. Id. Third, the weight given to those reasons, i.e. to particular aggravating or mitigating circumstances, is not subject to appellate review. Id. Fourth, the merits of a particular sentence are reviewable on appeal for appropriateness under Indiana Appellate Rule 7(B). Id.

II. Propriety of Sentence

A trial court may impose "any sentence that is: (1) authorized by statute … regardless of the presence or absence of aggravating or mitigating circumstances." Ind. Code § 35-38-1-7.1(d). However, a trial court abuses its discretion when it: 1) fails to issue any sentencing statement; 2) enters a sentencing statement that explains reasons for imposing a sentence, but the record does not support the reasons; 3) enters a sentencing statement that omits reasons clearly supported by the record and advanced for

consideration; or 4) considers reasons that are improper as a matter of law. Anglemyer, 868 N.E.2d at 490-91.

Neal argues that his guilty plea is entitled to be considered as a mitigating circumstance. "The extent to which a guilty plea is mitigating will vary from case to case." Hope v. State, 834 N.E.2d 713, 718 (Ind. Ct. App. 2005). A guilty plea is not necessarily a significant mitigating circumstance. Cotto v. State, 829 N.E.2d 520, 525 (Ind. 2005). A guilty plea's significance is diminished if there was substantial admissible evidence of the defendant's guilt, Scott v. State, 840 N.E.2d 376, 383 (Ind. Ct. App. 2006), trans. denied, and is also diminished in direct proportion to the benefit realized by the defendant in accepting it, Wells v. State, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005).

Neal received a substantial benefit by entering into the guilty plea. Neal faced possible conviction on two Class A felonies and a Class C felony. If convicted on all three counts, Neal faced a possible prison sentence of between forty-two and one hundred and eight years. By pleading guilty, Neal faced a maximum executed sentence of eighteen years. Under these circumstances, we cannot say the trial court abused its discretion by failing to consider the guilty plea as a mitigating circumstance.

Conclusion

The trial court did not abuse its discretion by refusing to consider Neal's guilty plea as a mitigating circumstance.

Affirmed.

DARDEN, J., and BAILEY, J., concur.