



## STATEMENT OF THE CASE

Defendant-Appellant Steven L. Miller appeals the trial court's sentence after he pled guilty to child molesting, a Class C felony. We affirm.

## ISSUES

Miller raises two issues for our review, which we restate as:

- I. Whether the trial court failed to provide a sufficient sentencing statement.
- II. Whether the trial court imposed an inappropriate sentence.

## FACTS AND PROCEDURAL HISTORY

Miller was charged with two counts of child molesting, Class A felonies, and one count of child molesting, a Class C felony. He subsequently entered a plea agreement whereby he pled guilty to the Class C felony and the State dismissed the Class A felonies. The agreement provided that Miller “waives his right to challenge the trial court’s findings and its balancing of mitigating and aggravating factors and further waives his right to have the Court of Appeals review his sentence under Indiana Appellate Rule 7(B).” (Appellant’s App. at 52). The agreement further provided that Miller “knowingly, intelligently, and voluntarily waive[s] [his] right to challenge the sentence on the basis that it is erroneous.” *Id.* The trial court accepted Miller’s plea and sentenced him to a term of six years in the Department of Correction’s custody.<sup>1</sup> Despite the waiver

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<sup>1</sup> Ind. Code § 35-50-2-6 states that a person who commits a Class C felony “shall be imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years.

provisions of the plea agreement, which Miller's counsel fails to mention in his brief, Miller now appeals.

## DISCUSSION AND DECISION

### I. SENTENCING STATEMENT

Miller contends that the trial court's sentencing statement is inadequate to explain the court's reasons for imposing the six-year sentence. However, as noted above, Miller signed a plea agreement that included an express waiver of his right to appeal on this basis. As our supreme court recently held, a defendant may waive a right to direct appeal of his sentence as part of a written plea agreement. *See Creech v. State*, 887 N.E.2d 73, 75 (Ind. 2008). As the court noted, a defendant's waiver of appellate rights can be of substantial benefit to both the defendant and society:

[D]efendants are free to waive their rights, to exchange them for other things that they value more highly. They exchange jury trials for lower sentences—and there is no reason why defendants cannot do the same with rights to appeal. An appeal requires the prosecutor's office to spend time researching the record, writing a brief, and attending oral argument. All of this time could be devoted to other prosecutions; and a promise that frees up time may induce a prosecutor to offer concessions. A defendant who values these concessions will waive his rights to obtain them. The process makes both society and the defendant better off. To make a given right ineligible for waiver would stifle this process and imprison the defendant in his privileges.

*Id.* (quoting *United States v. Hare*, 269 F.3d 859, 861 (7<sup>th</sup> Cir. 2001)).

This court has also held that a defendant may waive his right to directly appeal the sentence imposed under a guilty plea. *See Brattain v. State*, 891 N.E.2d 1055, 1057 (Ind. Ct. App. 2008). Miller has waived this issue for direct review.

## II. INAPPROPRIATE SENTENCE

Miller also contends that his sentence is inappropriate. Again, Miller's plea agreement provides an express waiver. This issue is also waived. *See Brattain, id.*

### CONCLUSION

Miller has waived any right to directly appeal his sentence.

Affirmed.

MAY, J., and BAILEY, J., concur.