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IN THE
COURT OF APPEALS OF INDIANA

CHRISTOPHER LEE RICHMOND,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A04-1101-CR-9
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Diane Ross Boswell, Judge
Cause No. 45G03-1004-FD-45

August 10, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Christopher Lee Richmond ("Richmond") appeals his two-year sentence for Theft, as a Class D felony,[1] presenting the sole issue of whether his sentence is inappropriate. We affirm.

Facts and Procedural History

On April 22, 2010, Richmond knowingly and intentionally exerted unauthorized control over aluminum machine parts belonging to American Precision Services. On September 16, 2010, Richmond pled guilty to Theft.

The trial court conducted a sentencing hearing on December 9, 2010. The trial court found as mitigating circumstances that Richmond had pled guilty and that he had substantial medical issues requiring ongoing medical treatment. The trial court found Richmond's juvenile and criminal history to be aggravating. Richmond was sentenced to two years imprisonment. He now appeals.

Discussion and Decision

Upon conviction of a Class D felony, Richmond faced a sentencing range of six months to three years, with the advisory sentence being one and one-half years. See Ind. Code § 35-50-2-7. Accordingly, his sentence is six months greater than the advisory.

Richmond's arguments direct our attention to the claimed significance of his proffered mitigating circumstances, specifically, his guilty plea and medical conditions. "So long as the sentence is within the statutory range, it is subject to review only for abuse of discretion."

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[1] Ind. Code § 35-43-4-2.

Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007). This includes the finding of an aggravating circumstance and the omission to find a proffered mitigating circumstance. Id. at 490-91. When imposing a 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.

The trial court's reasons must be supported by the record and must not be improper as a matter of law. Id. However, a trial court's sentencing order may no longer be challenged as reflecting an improper weighing of sentencing factors. Id. A trial court abuses its discretion if its reasons and circumstances for imposing a particular sentence are 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. Hollin v. State, 877 N.E.2d 462, 464 (Ind. 2007). Here, the trial court recognized Richmond's guilty plea and "substantial medical issues that require ongoing treatment" as mitigating circumstances. (App. 21.) To the extent that Richmond urges reweighing of the mitigating circumstances, the argument is unavailable to him. Anglemyer, 868 N.E.2d at 491.

Under Indiana Appellate Rule 7(B), this "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." In performing our review, we assess "the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." Cardwell v. State, 895 N.E.2d 1219, 1224 (Ind. 2008). 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)).

As for the nature of the offense, it is not particularly remarkable. Richmond and his brother stole scrap metal which they intended to sell. As to the character of the offender, Richmond pled guilty, which reflects favorably on his character. See Scheckel v. State, 655 N.E.2d 506, 511 (Ind. 1995) ("[T]he fact that [the defendant] pled guilty demonstrates his acceptance of responsibility for the crime and at least partially confirms the mitigating evidence regarding his character"). However, Richmond received a benefit in that the State declined to file a habitual offender allegation. See Anglemyer v. State, 875 N.E.2d 218, 221 (Ind. 2007) (opinion on rehearing) (recognizing that a plea may not be significant "when the defendant receives a substantial benefit in return for the plea").

Richmond has been adjudicated a juvenile delinquent on six occasions (for truancy and for acts that would be theft, trespass, possession of a handgun without a license, and criminal mischief, if committed by an adult). His adult criminal history includes the following: Conversion, a misdemeanor, in 1996, Burglary as a Class C felony in 1996, Possession of Paraphernalia, a misdemeanor, in 1998, Resisting Law Enforcement, a misdemeanor, in 1999, two convictions for Theft as a Class D felony in 2000, felony Burglary in the State of Illinois in 2003, Auto Theft as a Class D felony in 2007, Driving While Suspended, a Class A misdemeanor, in 2007, Public Intoxication, a Class B

misdemeanor, in 2007, and Disorderly Conduct, a Class B misdemeanor, in 2007. His history indicates a continued willingness to deprive others of their property.

In sum, there is nothing in the nature of the offense or the character of the offender to persuade us that the two-year sentence, which is six months above the advisory sentence, is inappropriate.

Affirmed.

MATHIAS, J., and CRONE, J., concur.