

Ronald Trent (“Trent”) pleaded guilty to voluntary manslaughter,¹ a Class A felony, and, was sentenced to thirty-five years executed. He appeals his sentence, raising the following restated issues:

- I. Whether the trial court abused its discretion in its determination of mitigating factors; and
- II. Whether the sentence imposed was inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

FACTS AND PROCEDURAL HISTORY

On November 29, 2002, Trent, Ralph Herron (“Herron”), and Clyde Lovely (“Lovely”) gathered at Herron and Trent’s residence and became intoxicated on alcohol and pills. Eventually, an argument ensued which developed into a physical altercation. During the altercation, Trent took Lovely’s metal cane and began beating him with it. After the blows caused the cane to break, Trent stabbed Lovely several times with the sharp end of the cane. *Appellant’s App.* at 11-13. Trent then wrapped Lovely in a piece of plastic, took him to a bridge over a ditch, and dumped him into the water. Prior to disposing of Lovely’s body, Trent and Herron were not positive Lovely was actually dead, but he had died by the time his body was found the next day. *Id.* at 11-14.

The State charged Trent with voluntary manslaughter. On the day before a jury trial was to begin, he entered into a plea agreement and pleaded guilty to the offense. *Id.* at 10, 84. The agreement stipulated that Trent would not receive more than a forty-year sentence

¹ See Ind. Code § 35-42-1-3.

in the Indiana Department of Correction. *Id.* at 15. Trent was thereafter sentenced to thirty-five years executed. *Id.* at 18-19. Trent now appeals.

DISCUSSION AND DECISION

I. Mitigating Factors

Trent contends that the trial court abused its discretion by overlooking significant mitigating factors. Trent committed his offense in 2002, and we apply the sentencing scheme in effect at the time of the defendant's offense. *Upton v. State*, 904 N.E.2d 700, 702 (Ind. Ct. App. 2009) (citing *Robertson v. State*, 871 N.E.2d 280, 284 (Ind. 2007)). At the time of Trent's offense, the crime of voluntary manslaughter had a presumptive sentence of thirty years, with a minimum of twenty and a maximum of fifty. Ind. Code § 35-50-2-4 (1998) (no amendments in 2002 supplement). Our standard of review is that "sentencing determinations are within the trial court's discretion" and "[w]e review trial court sentencing decisions only for abuse of discretion, including a trial court's decisions to increase or decrease the presumptive sentence because of aggravating or mitigating circumstances and to run the sentences concurrently or consecutively." *Henderson v. State*, 769 N.E.2d 172, 179 (Ind. 2002). If a trial court relies upon aggravating or mitigating circumstances to enhance or reduce the presumptive sentence, it must: (1) identify all significant mitigating and aggravating circumstances; (2) state the specific reason why each circumstance is determined to be mitigating or aggravating; and (3) articulate the court's evaluation and balancing of the circumstances. *Cotto v. State*, 829 N.E.2d 520, 523-24 (Ind. 2005). "An abuse of discretion occurs if 'the decision is clearly against the logic and effect of the facts

and circumstances.” *Upton*, 904 N.E.2d at 702 (quoting *Pierce v. State*, 705 N.E.2d 173, 175 (Ind. 1998)).

Although a sentencing court must consider all evidence of mitigating circumstances offered by the defendant, the finding of a mitigating factor rests within the court’s discretion. *Henderson*, 769 N.E.2d at 179. A court does not err in failing to find mitigation when a mitigation claim is highly disputable in nature, weight, or significance. *Id.* The court is obligated neither to credit mitigating circumstances in the same manner as would the defendant, nor to explain why he or she has chosen not to find mitigating circumstances. *Id.*

Here, the trial court listed aggravating circumstances, including the defendant’s prior criminal record and the brutal nature of the crime, and mitigating circumstances, including Trent’s remorse and that he testified against his co-defendant. *Appellant’s App.* at 18-19. In addition, at the sentencing hearing, the court noted Trent’s admission of guilt as a potential mitigating factor. *Id.* at 126.

Trent argues the trial court overlooked significant mitigating factors, specifically his admission of guilt and history of substance abuse. While it is well-established that a defendant who pleads guilty deserves to have mitigating weight extended to the guilty plea in return, *Francis v. State*, 817 N.E.2d 235, 238 (Ind. 2004), a guilty plea is not automatically a significant mitigating factor. *Sensback v. State*, 720 N.E.2d 1160, 1165 (Ind. 1999). 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 guilty is merely a pragmatic one. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005).

Here, Trent received a substantial benefit in that the longest sentence he could receive under his plea agreement would be forty years, ten years less than the longest sentence under the statute. *Appellant's App.* at 15. Moreover, the weight of a guilty plea is lessened if it is made on the eve of trial, as Defendant did here, and after the State has already expended significant resources. *Primmer v. State*, 857 N.E.2d 11, 16 (Ind. Ct. App. 2006). Defendant pled guilty after the jury had been called and the day before his trial was to begin. *Appellant's App.* at 83-84. In regards to his substance abuse history, our Supreme Court has noted that substance abuse is not required to be considered as a mitigating circumstance. *James v. State*, 643 N.E.2d 321, 323 (Ind. 1994). Thus, the trial court did not abuse its discretion when it did not find Trent's alleged substance abuse as a substantial mitigating factor. We therefore conclude that the trial court properly identified all significant mitigating circumstances and did not abuse its discretion.

II. Appropriateness

Trent also contends that the sentence imposed is inappropriate based on the nature of the offense and the character of the offender. Under Article VII, section 6 of the Indiana Constitution and Indiana Rules of Appellate Procedure 7(B), we may review a sentence authorized by statute and revise it if we find the sentence is inappropriate in light of the nature of the offense and the character of the offender. The burden is upon the defendant to

show that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

Citing *Eversole v. State*, 873 N.E.2d 1111 (Ind. Ct. App. 2007), Trent argues that the nature of the offense was a crime of sudden heat. In *Eversole*, the defendant who was estranged from his wife confronted her and a co-worker with whom she was romantically involved. Without much provocation, Eversole shot and killed the co-worker. While our court acknowledged that Eversole's offense was a crime of sudden heat, we went on to point out that the nature of the offense was nevertheless extreme because there was little provocation for Eversole's violent reaction. *Id.* at 1114.

Here, while Trent was charged with a crime of sudden heat, there was little or no provocation for his brutal actions. After getting into an argument with a friend, Trent bludgeoned and stabbed the victim with his own cane, wrapped him in plastic, and dropped him into water without knowing whether the victim was still alive.

As to character, while Trent expressed remorse for his actions, testified against his co-defendant, and pleaded guilty, he has an extensive criminal history, which includes several felonies and crimes of violence. Trent has not shown that the trial court's decision to add five years to the presumptive sentence was inappropriate in light of the nature of the offense and the character of the offender.

Affirmed.

RILEY, J., and BAILEY, J., concur.