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**IN THE
COURT OF APPEALS OF INDIANA**

JOSEPH DIXON,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A04-1008-CR-488

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark D. Stoner, Judge
Cause Nos. 49G06-0912-FB-98749, 49G06-1003-FB-16415,
49G06-1003-FC-17349, 49G06-1005-FB-40570

April 8, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Joseph Dixon appeals the fourteen-year sentence imposed by the trial court following his guilty plea to three counts of class B felony burglary and one count of class C felony burglary. Dixon's sole contention on appeal is that the trial court abused its discretion when it sentenced him. Finding no abuse of discretion, we affirm.

Facts and Procedural History

On September 3, 2009, Dixon entered the home of Keaira Clay by removing a window screen. Once inside, Dixon stole a television. On September 25, 2009, Dixon entered David Wheeler's home by kicking in the front door and again stole a television. On January 29, 2010, Dixon threw a cinder block through a glass window at a Food Plus store. After entering the store, Dixon stole lottery tickets. On May 4, 2009, Dixon entered Diana Madison's home by kicking in a door. Dixon stole Madison's television. The State charged Dixon, under four different cause numbers, with three counts of class B felony burglary, one count of class C felony burglary, and four counts of class D felony theft.

A jury trial on all four cause numbers was set for July 7, 2010.¹ On the day of trial, the State and Dixon entered into a plea agreement. Dixon agreed to plead guilty to three counts of class B felony burglary and one count of class C felony burglary. The State agreed to dismiss the four counts of class D felony theft. The plea agreement further provided for

¹ As noted by the State, it does not appear that Dixon ever filed a motion to consolidate the lower court cause numbers nor can we locate an entry in the chronological case summary indicating that the trial court in fact consolidated these cases. However, the parties and the trial court clearly considered the action as a consolidated matter and the parties do not object to this Court doing the same. Appellee's Br. at 2.

“[a] cap of sixteen years on the initial executed portion of the sentence” as well as restitution to the victims. Appellant’s Supp. App. at 1.

The trial court held a sentencing hearing on July 16, 2010. The trial court found Dixon’s extensive criminal history to be a significant aggravating factor. The court concluded that the mitigators proffered by Dixon were not significant and, thus, the aggravating circumstances outweighed the mitigating circumstances. The trial court sentenced Dixon to a fourteen-year executed sentence with eight years to be served in the Indiana Department of Correction and six years to be served in a community corrections program. This appeal ensued.

Discussion and Decision

Sentencing decisions rest within the sound discretion of the trial court. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh’g*, 875 N.E.2d 218. 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. 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).

Dixon contends that the trial court failed to consider as a mitigating factor the alleged hardship that his incarceration will cause to his family. When a defendant alleges that the trial court failed to identify or find a mitigating factor, the defendant must establish that the

mitigating evidence is not only supported by the record but also that the mitigating evidence is significant. *Anglemyer*, 868 N.E.2d at 493. The trial court is not required to find mitigating factors or give them the same weight the defendant does. *Rascoe v. State*, 736 N.E.2d 246, 248-49 (Ind. 2000). Indeed, a trial court is free to disregard mitigating factors it does not find to be significant. *Carter v. State*, 711 N.E.2d 835, 838 (Ind. 1999).

Here, although Dixon mentioned the alleged hardship that a lengthy incarceration would cause to his family, Dixon offered no significant evidence in support of that mitigator. This Court has observed, “[m]any persons convicted of crimes have dependents and, absent special circumstances showing that the hardship to them is ‘undue,’ a trial court does not abuse its discretion by not finding this to be a mitigating factor.” *Benefield v. State*, 904 N.E.2d 239, 247 (Ind. Ct. App. 2009), *trans. denied*. As Dixon advanced no special circumstances to the trial court and the record reveals no such circumstances, we cannot say that the trial court abused its discretion in declining to find this proffered mitigator to be significant.

Dixon also contends that the trial court abused its discretion when, during the sentencing hearing, the court improperly described Dixon’s current crimes as “violent” in nature. Appellant’s Br. at 8. As noted by the State, the trial court conceded that Dixon’s crimes were not violent in a technical sense but the court merely went on to lecture Dixon as to the psychological harm that the home burglaries caused to his victims. Moreover, Dixon

admits that the trial court neither relied upon nor cited the nature of his current crimes when imposing sentence. Dixon has failed to establish an abuse of discretion.²

Affirmed.

ROBB, C.J., and NAJAM, concur.

² In the last sentence of his appellant's brief, Dixon suggests that we should revise his sentence. However, Dixon offers no cogent argument and gives us no guidance as to why the nature of his offenses or his character renders his sentence inappropriate. Therefore, he has waived our review of the appropriateness of his sentence. *See Day v. State*, 898 N.E.2d 471, 472 (Ind. Ct. App. 2008) (Indiana Appellate Rule 7(B) argument waived for failure to cite authority or provide cogent argument).