

Case Summary

Charged with Sexual Misconduct with a Minor, as a Class C felony, Carlos L. Cordova (“Cordova”) pled guilty to Sexual Misconduct with a Minor, as a Class D felony.¹ As part of his plea agreement, Cordova expressly waived the right to appeal his sentence, but now he purportedly raises a single issue, whether his three-year sentence is inappropriate. We affirm.

Facts and Procedural History

Cordova and the State entered into a plea agreement that provided in part, “The Defendant understands and agrees ... he or she knowingly, intelligently, and voluntarily waives his or her right to challenge the sentence on the basis that it is erroneous or inappropriate.” (App. 41.) (Emphasis in original.) At the sentencing hearing, the trial court advised Cordova “you have the right to appeal the sentence imposed in this case.” (Tr. 31.) This appeal ensued.

Discussion and Decision

Plea agreements are in the nature of contracts entered into between the defendant and the State. Lee v. State, 816 N.E.2d 35, 38 (Ind. 2004). A defendant may waive the right to appellate review of his sentence as part of a written plea agreement. Creech v. State, 887 N.E.2d 73, 75 (Ind. 2008). Express findings as to whether a defendant intended to waive his or her appellate rights are not required. Id. at 77.

The appellant in Creech argued that his waiver was not knowing and voluntary

¹ Ind. Code § 35-42-4-9.

because the trial judge advised him at the close of the sentencing hearing that he retained the right to appeal. See id. at 76. The Court rejected Creech's argument, explaining:

While we take this opportunity to emphasize the importance of avoiding confusing remarks in a plea colloquy, we think the statements at issue are not grounds for allowing Creech to circumvent the terms of his plea agreement. . . . By the time the trial court erroneously advised Creech of the possibility of appeal, Creech had already pled guilty and received the benefit of his bargain. Being told at the close of the hearing that he could appeal presumably had no effect on that transaction.

Id. at 76-77. Cordova makes no argument on appeal that his plea was not knowingly or voluntarily made, but instead argues that the three-year sentence is inappropriate and should be revised pursuant to Indiana Appellate Rule 7(B). He received the benefit of the written plea agreement and gave up the right to challenge his sentence for inappropriateness.

Affirmed.

FRIEDLANDER, J., and BROWN, J., concur.