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IN THE
COURT OF APPEALS OF INDIANA

JANA LYNN BRANDLE (CANNON),	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 48A02-0611-CR-1019
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable David W. Hopper, Judge
Cause No. 48E01-0606-FD-240

JULY 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

On June 9, 2006, Brandle was charged with possession of cocaine, a Class D felony, and receiving stolen property, a Class D felony. She pled guilty to both offenses, and the latter offense was reduced to a misdemeanor and discharged on the basis of her credit for pretrial incarceration. She was sentenced to thirty months on the cocaine charge.

Brandle's appeal challenges the sentence imposed. She asserts the court abused its discretion in imposing a thirty month sentence; that it improperly considered aggravating circumstances and failed to find significant mitigating circumstances. Arguably, she also contends the sentence was inappropriate under Indiana Appellate Rule 7(B).

Brandle was charged and convicted under the statutory scheme, which became effective April 25, 2005. Those amendments removed the prior system, which utilized a presumptive sentence, because of the requirements imposed by *Blakely v. Washington,* 542 U.S. 296 (2004) and *Smylie v.State,* 823 N.E.2d 679 (Ind. 2005). Instead, Ind. Code 35-38-1-7.1(d) presently provides that a court may impose any sentence authorized by statute "regardless of the presence or absence of aggravating circumstances or mitigating circumstances." Even so, the legislature retained I.C. 35-38-1-3 which requires a sentencing hearing and says that if the court finds aggravating or mitigating circumstances, it shall state its reasons for the sentence it imposes.

While there has been some disagreement as to the continued need to state aggravating and mitigating circumstances, that dilemma has now been resolved by the supreme court in *Anglemyer v. State,* __N.E.2d __, 43S05-0606-CR-230, decided June 26, 2007. Accordingly, *Anglemyer* controls our decision herein.

The *Anglemeyer* court summarized its ruling as follows:

"1. The trial court must enter a statement including reasonably detailed reasons or circumstances for imposing a particular sentence.

2. The reasons given, and the omission of reasons arguably supported by the record, are reviewable on appeal for abuse of discretion.

3. The relative weight or value assignable to reasons properly found or those which should have been found is not subject to review for abuse.

4. Appellate review of the merits of a sentence may be sought on the grounds outlined in Appellate Rule 7(B)."

__ N.E.2d at __

While the trial court did not have the benefit of *Anglemyer* in entering its decision, we find its sentencing statement sufficient for us to conduct meaningful review.

The court determined that Brandle's prior felonies and multiple substance offenses were aggravating factors and her pleading guilty was a mitigating factor.

The pre-sentence report discloses that Brandle had a number of offenses dating back to 1981. Most appear to have involved alcohol or cocaine, including two prior felonies for possession of cocaine. There was no abuse of discretion in determining her prior offenses to be an aggravating factor.

Brandle complains that the court failed to find her substance addiction to be a mitigator. However, the pre-sentence investigation disclosed that on her prior convictions for cocaine possession, she had been ordered to treatment and had nevertheless continued to have dirty drug screens while on probation. Under these

circumstances the court could have concluded that her substance addiction was not a mitigator since she had not taken advantage of opportunities to do something about it. We find no abuse of discretion in failing to find her addiction was a mitigating factor.

She contends the court should have given more weight to her guilty plea. Pursuant to *Anglemyer* the weight given to her guilty plea is not subject to review for abuse.

We find no abuse of discretion in the court's imposition of a sentence of thirty months, which is twelve months more that the advisory sentence and six months less than the maximum sentence for a Class D felony. See, I.C. §35-50-2-7.

Finally, Brandle points out that pursuant to Indiana Appellate Rule 7(B) we have the authority to revise a sentence that is inappropriate in light of the nature of the offense and the character of the offender. To the extent that she simply contends her preceding argument demonstrates a violation of A.R. 7(B) the argument fails. If she intended to go beyond her previous argument, she has failed to present cogent reasoning as required by A.R. 46(8)(a) to demonstrate the application of A.R. 7(B). Thus, any such contention has been waived.

Affirmed.

BAKER, C.J., and BAILEY, J., concur.