

STATEMENT OF THE CASE

Appellant-Defendant, Daniel D. Bollinger (Bollinger), appeals his conviction for burglary, as a Class B felony, Ind.Code § 35-43-2-1, and aggravated battery, as a Class B felony, I.C. § 35-42-2-1.5.

We affirm.

ISSUE

Bollinger raises one issue on appeal, which we restate as follows: Whether the trial court properly sentenced Bollinger.

FACTS AND PROCEDURAL HISTORY

On May 17, 2006, Bollinger and his wife (collectively, the Bollingers) lived in a Delaware County apartment, which adjoined Ernest Ball's (Ball) apartment; they shared a common bathroom. That evening the Bollingers were sitting in their apartment when Ball, who had been drinking and was intoxicated, became enraged over their shared bathroom. Ball continued ranting even after the Bollingers cleaned the bathroom. Bollinger called their landlord and asked that Ball be immediately removed from the building. The landlord said there was nothing he could do that evening, but would look into the matter first thing the next morning. Bollinger told the landlord he had a handgun and would use it on Ball if necessary.

In the meantime, Ball continued to rant and rave and tried to enter the Bollingers' apartment through a childproof gate the Bollingers' had across their threshold. Bollinger retrieved his handgun and shot a warning shot above Ball's head. Ball retreated to his apartment. Bollinger followed Ball across the hall believing Ball was going to retrieve a

weapon. A scuffle ensued near the door to Ball's apartment. Bollinger fired two other "warning shots" and ultimately shot Ball in the side.

On May 23, 2006, the State filed an Information charging Bollinger with Count I, attempted murder, a felony, I.C. §§ 35-41-5-1, 35-42-1-1(1); Count II, burglary resulting in bodily injury, a Class A felony, I.C. § 35-43-2-1; and Count III, aggravated battery, a Class B felony, I.C. § 35-42-2-1.5. On November 13, 2006, Bollinger entered into a plea agreement with the State agreeing to plead guilty to Count II, burglary, as a Class B felony, and Count III, aggravated battery, as Class B felony. In exchange, the State agreed to dismiss Count I, attempted murder. On January 10, 2007, the trial court sentenced Bollinger to ten years for Count II, burglary, and ten years for Count III, battery, with four years suspended to supervised probation. The trial court ordered the sentences be served consecutively, finding as follows:

. . . [Bollinger] should serve the above sentences consecutively. In support, the [c]ourt finds the harm was significant: serious and permanent bodily injury to the victim due to gunshot. The most important factor considered by the [c]ourt in determining [Bollinger] should serve the sentences consecutively is that [Bollinger] initiated the final incident by entering the victim's apartment. [Bollinger] did not defend his own dwelling using his gun, and he did not use the gun to defend himself and his wife while leaving the building. [Bollinger] had options other than forcing himself into the victim's apartment and shooting the victim.

(Appellant's App. p. 97).

DISCUSSION AND DECISION

Bollinger claims the imposition of consecutive sentences by the trial court was inappropriate. Specifically, Bollinger asserts the trial court failed to consider: (1) his guilty plea; (2) that he acted under strong provocation and in self defense; (3) the

hardship a jail sentence would put on his wife and unborn child; and (4) his minimal criminal history when imposing consecutive sentences.

Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). An abuse of discretion occurs if a trial court's decision is clearly against the logic and effect of the facts and circumstances before the court. *Payne v. State*, 854 N.E.2d 7, 13 (Ind. Ct. App. 2006). "[O]nce the trial court has entered a sentencing statement, which may or may not include the existence of aggravating and mitigating factors, it may then 'impose any sentence that is authorized by statute[] and . . . permissible under the Constitution of the State of Indiana.'" *Anglemyer*, 868 N.E.2d at 491. However, "we must be told of [the trial court's] reasons for imposing the sentence. . . . This necessarily requires a statement of facts, in some detail, which are peculiar to the particular defendant and the crime, as opposed to general impressions or conclusions. Of course[,] such facts must have support in the record." *Id.* (quoting *Page v. State*, 424 N.E.2d 1021, 1023 (Ind. 1981)).

Likewise, the decision to impose consecutive sentences is generally within the trial court's discretion. *Shafer v. State*, 856 N.E.2d 752, 756 (Ind. Ct. App. 2006), *trans. denied*. Pursuant to I.C. § 35-50-1-2, a trial court shall determine whether terms of imprisonment shall be served concurrently or consecutively. In doing so, the trial court may consider aggravating and mitigating circumstances under I.C. §§ 35-38-1-7.1(a) and (b). Further, the trial court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. I.C. § 35-50-1-2(c).

Here, our review of the record in Bollinger's case indicates that the trial court sentenced Bollinger to ten years for each of the two offences he plead guilty to; the sentences authorized by statute, and the trial court thoroughly explained its reasons for doing so. *See* I.C. §§ 35-43-2-1 and 35-42-2-1.5. In sentencing Bollinger to consecutive ten-year sentences, the trial court noted at the sentencing hearing the serious and permanent bodily injury inflicted upon Ball in his own apartment, that Bollinger did not defend his own dwelling when using his gun, that he did not use the gun to defend himself and his wife while leaving the building, and that there were other options available to Bollinger beside forcing himself into Ball's apartment and shooting him. Thus, we find the trial court entered a reasonably detailed sentencing statement supporting the imposition of consecutive sentences.

CONCLUSION

Based on the foregoing, we conclude the trial court did not abuse its discretion in imposing consecutive sentences.

Affirmed.

SHARPNACK, J., and FRIEDLANDER, J., concur.