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IN THE
COURT OF APPEALS OF INDIANA

WILLIAM G. RAMA, JR.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 22A04-0612-CR-708
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE FLOYD SUPERIOR COURT
The Honorable J. Terrence Cody, Special Judge
Cause No. 22D01-0503-FD-162 & Cause No. 22D01-0411-FC-790

September 21, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant William G. Rama, Jr. ("Rama") appeals his sentences for Driving While Privileges Forfeited for Life, a Class C felony,[1] Operating a Vehicle While Intoxicated, as a Class A misdemeanor,[2] Escape, a Class D felony,[3] and Habitual Offender status.[4] We affirm.

Issues

Rama presents two issues on appeal:

I. Whether the trial court erred in sentencing Rama in absentia; and

II. Whether his sentences are inappropriate.

Facts and Procedural History[5]

On October 30, 2004, Rama had consumed alcohol in such quantities that his blood alcohol content ("BAC") was at least .15 grams of alcohol per 210 liters of breath. Despite having his driving privileges suspended for life, Rama then proceeded to operate an automobile in Floyd County while under the influence of alcohol. Rama was eventually arrested and charged with operating a motor vehicle while privileges were forfeited for life, a Class C felony, and operating a vehicle while intoxicated, as a Class A misdemeanor. An Habitual Offender allegation was filed at a later time. While the charges were pending, Rama was placed on home detention.

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[1] Ind. Code § 9-30-10-17.
[2] Ind. Code § 9-30-5-1(b).
[3] Ind. Code § 35-44-3-5(b).
[4] Ind. Code § 35-50-2-8.
[5] We remind counsel for Appellant of the obligation under Indiana Appellate Rule 46(A)(10) to include a copy of the sentencing order in the Appellant's Brief.

On March 10, 2005, while on home detention, Rama cut and removed his electric monitor and left his home. Rama did not have permission to leave his residence. As a result of this episode, Rama was charged with Escape, as a Class D felony, and an Habitual Offender allegation was also filed. These charges were filed under a separate cause number, but the two cause numbers were later consolidated for sentencing.

On June 19, 2006, Rama pled guilty to all of the pending charges and admitted that he is an habitual offender. The sentencing hearing was held on October 5, 2006. The trial court accepted Rama's guilty pleas and sentenced him to eight years for operating a motor vehicle while privileges were forfeited for life and one year for driving while under the influence, which were to be served concurrently. The trial court sentenced Rama to three years for escape and enhanced the sentence by four and one half years based on the Habitual Offender finding. The enhanced sentence for escape was ordered to be served consecutively to the driving offenses sentence. Rama's aggregate sentence is fifteen and one half years imprisonment. Rama now appeals.

Discussion and Decision

I. Sentencing While Defendant is Absent

On appeal, Rama contends that the trial court erred in pronouncing the enhancement from the habitual offender outside of his presence. He supports his argument with the statute that provides that a defendant must be personally present at the time when his sentence is pronounced. See Ind. Code § 35-38-1-4(a).

At sentencing, the trial court imposed sentences for each conviction, but a question

arose as to whether a habitual offender enhancement could be added to the suspended driving privileges conviction. The trial court did specify the habitual offender enhancement attached to the conviction for escape, but before addressing the enhancement based on operating a vehicle with permanently suspended privileges Rama cited caselaw purportedly prohibiting such an enhancement. In response to Rama's argument, the trial court indicated that it would review the proffered case. If the caselaw did not prohibit such an enhancement, the trial court said that it would reschedule the sentencing hearing so that relevant argument could be provided. Otherwise, Rama's sentence would remain unchanged from that announced at the sentencing hearing. No change has been made to the sentences, and Rama was present when the trial court announced them. There is no error.

Rama also makes a cursory argument that the trial court erred in failing to inform him of his possible release dates as required by statute. See Ind. Code § 35-38-1-1(b). The parties agree and our review confirms that the trial court did not so advise Rama. However, Rama's three-sentence argument does not allege that he was prejudiced or harmed in any way by this failure to inform.

II. Appropriateness of Sentences

Rama also contends that his sentences are inappropriate. Specifically, he contends that his sentences should be reduced because he pled guilty to the offenses, his crimes were victimless, there were grounds tending to excuse or justify the escape, and he suffers from mental and emotional disorders as well as alcoholism and substance abuse. Pursuant to Indiana Appellate Rule 7(B), he seeks revision of his sentence.

Indiana Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under such review, a defendant must persuade the appellate court that his or her sentence has met the inappropriateness standard of review. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

With regard to the nature of the offenses, the evidence shows that, despite knowing that his driving privileges had been suspended for life based on his past convictions for driving while intoxicated, Rama chose to drink and drive with a BAC of almost twice the legal limit. After being arrested, charged, and released to home detention, Rama willfully removed his electronic monitor and left his residence.

In regards to his character, Rama argues that his sentence should be reduced due to his decision to plead guilty to the offenses. Indiana has long recognized that a defendant who pleads guilty deserves some mitigating weight extended to the guilty plea in return. Cotto v. State, 829 N.E.2d 520, 525 (Ind. 2005). Where the State reaps a substantial benefit from the defendant's plea, the plea saves the court time and the victim is spared the trauma of a trial, the defendant should have a substantial benefit in return. Simmons v. State, 814 N.E.2d 670, 681 (Ind. Ct. App. 2004), trans. denied. However, the mitigating weight assigned to a defendant's guilty plea varies based on the facts of the case, and it is not necessarily a significant mitigating factor. Hope v. State, 834 N.E.2d 713, 718 (Ind. Ct. App. 2005). A guilty plea is not a significant mitigating circumstance where the evidence against the

defendant 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), trans. denied.

Here, the evidence against Rama was strong and would not have required a trial of any substantial length. Nevertheless, Rama's plea of guilty to all charges saved the State the time and expense of trial. His plea of guilty is entitled to some weight.

However, supporting Rama's longer sentence is his extensive criminal history, including at least two prior convictions for operating a vehicle while intoxicated as well as a conviction for escape. In light of his continuing pattern of disregard for the law, it is clear that Rama is undeterred by the judicial system and the consequences of his crimes. The death of his best friend was the result on one of the occasions in which Rama chose to drink and drive. Nevertheless, Rama continues to get behind the wheel after drinking. Rama also has numerous felony convictions for drug, alcohol, and driving offenses as well as various other crimes including burglary, battery, conspiracy to commit armed robbery, and theft.

Aware of his alcohol and drug addictions, Rama has been to a number of treatment centers, but never completed any program. His reason for not completing the programs was that he "always found an excuse." Sentencing Transcript at 40.

Based on the nature of the offenses and the character of the offender, we are not persuaded that a lesser sentence is warranted.

Affirmed.

BAKER, C.J., and VAIDIK, J., concur.