MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Tyler Groleau,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 10, 2023

Court of Appeals Case No. 23A-CR-401

Appeal from the Howard Superior Court

The Honorable William Menges, Judge

Trial Court Cause Nos.
34D01-2001-F6-249
34D01-2103-F6-838
34D01-2106-F5-2020
34D03-2104-CM-1409

Memorandum Decision by Judge Riley.
Judges Bradford and Weissmann concur.

Riley, Judge.

STATEMENT OF THE CASE

[1] Appellant-Defendant, Tyler Groleau (Groleau), appeals his combined sentence in four separate cases for burglary, a Level 5 felony, Ind. Code § 35-43-2-1; obstruction of justice, a Level 6 felony, I.C. § 35-44.1-2-2(a)(3); unlawful possession of a syringe, a Level 6 felony, I.C. § 16-42-19-18; possession of methamphetamine, a Level 6 felony, I.C. § 35-48-4-6.1(a); and operating a vehicle while intoxicated endangering a person, a Class A misdemeanor, I.C. § 9-30-5-2(a)&(b).

[2] We affirm.

ISSUES

[3] Groleau presents this court with one issue on appeal, which we restate as the following two issues:

(1) Whether the trial court abused its discretion when identifying mitigating circumstances during the sentencing hearing; and
(2) Whether Groleau's sentence is appropriate in light of the nature of the offenses and his character.

FACTS AND PROCEDURAL HISTORY

[4] On the evening of January 12, 2020, Groleau was the rear seat passenger in a vehicle that was pulled over for failing to comply with a traffic light. During the traffic stop, the driver of the vehicle was found to be in possession of

methamphetamine and seven syringes. Initially, Groleau provided officers with a false name; however, after determining his identity, Groleau was found to have active warrants for his arrest. After he was arrested and seated in the back of a patrol car, Groleau swallowed approximately three grams of methamphetamine and required medical intervention. On January 24, 2020, the State filed an Information in Cause 34D01-2001-F6-249 (Cause F6-249), charging Groleau with obstruction of justice, a Level 6 felony. He was released on bond.

[5] On March 4, 2021, probation officers supervising Groleau's roommate, who was on work release, searched the motel room where Groleau and his roommate were residing. The officers discovered methamphetamine, three syringes, a glass smoking pipe, a bent spoon with residue, and a small digital scale. Each man pointed at the other occupant as the owner of the illegal drugs and paraphernalia. On March 10, 2021, the State filed an Information in Cause 34D01-2103-F6-838 (Cause F6-838), charging Groleau with unlawful possession of a syringe, a Level 6 felony, possession of methamphetamine, a Level 6 felony, and possession of paraphernalia, a Class C misdemeanor. Groleau was again released on bond.

[6] On April 26, 2021, officers performed a traffic stop after noticing a vehicle, driven by Groleau, cross the center line and make a wide turn. Officers determined that Groleau had a .14 blood alcohol level. On April 27, 2021, the State filed an Information in Cause 34D03-2104-CM-1409 (Cause CM-1409), charging Groleau with operating a vehicle while intoxicated endangering a

person, a Class A misdemeanor, operating a vehicle with an ACE of .08 or more, a Class C misdemeanor, and operating a motor vehicle without ever receiving a license, a Class C misdemeanor.

[7] On June 13, 2021, Groleau was apprehended after he and his brother broke into a laundromat and an adjoining insurance office and stole money, computer equipment, and keys. They "ransacked" the businesses and caused property damage to vending machines, computer monitors, a glass award, security cameras, and a safe. (Appellant's App. Vol. II, p. 201). They also discharged a fire extinguisher. On June 17, 2021, the State filed an Information in Cause 34D01-2106-F5-2020 (Cause F5-2020), charging Groleau with burglary, a Level 5 felony, and criminal mischief, a Class A misdemeanor.

[8] On August 12, 2021, Groleau entered into a plea agreement with the State to resolve the four Causes and pled guilty to burglary, a Level 5 felony, in Cause F5-2020, obstruction of justice, a Level 6 felony, in Cause F6-249, unlawful possession of a syringe and possession of methamphetamine, Level 6 felonies, in Cause F6-838, and operating a vehicle while intoxicated endangering a person, a Class A misdemeanor, in Cause CM-1409. The trial court dismissed the remaining charges, and, pursuant to the terms of the plea agreement, deferred disposition of the Causes "pending [Groleau's] participation in the Drug Court Program." (Appellant's App. Vol. II, p. 46). As part of the deferral, Groleau was placed on GPS monitoring and ordered to reside in a rehabilitation facility in Kokomo, Indiana.

[9] During his participation in the Howard County Drug Court Program, Groleau was found in indirect contempt of court on November 17, 2021, January 12, 2022, and August 15, 2022. A notice of termination from Drug Court was issued on October 5, 2022, based on Groleau "absconding from Drug Court, along with violating the terms and conditions of the Drug Court Program." (Appellant's App. Vol. III, p. 54). On November 30, 2022, after Groleau admitted to the violations, the trial court issued an order, terminating him from the Drug Court Program. Thereafter, on January 25, 2023, Groleau was sentenced in the four Causes. During the sentencing hearing, Groleau informed the trial court that he had been accepted in a drug rehabilitation program in Florida and expressed his hope that the trial court would allow him to pursue that program. Rejecting this request, the trial court found Groleau's wish "somewhat disingenuous" based on him failing the Drug Court Program. (Transcript pp. 9-10). The trial court determined Groleau's criminal history to be an aggravating circumstance and found no mitigating circumstances. The trial court sentenced him to six years for burglary in Cause F5-2020, two-and-a-half years for obstruction of justice in Cause F6-249, two-and-a-half years each for unlawful possession of a syringe and possession of methamphetamine in Cause F6-838, and one year for operating while intoxicated endangering a person in Cause CM-1409. The trial court ordered the sentences in each Cause to be served consecutively—with concurrent sentences for the two convictions in cause F6-838—and all but the final year executed for an aggregate sentence of twelve years, with eleven years served in the Department of Correction (DOC) and one year suspended to probation.

[10] Groleau now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. *Mitigating Circumstances*

[11] Groleau contends that the trial court abused its discretion by failing to acknowledge certain mitigating circumstances. 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 (Ind. 2007). So long as the sentence is within the statutory range, as it is here, it is subject to review only for an abuse of discretion. *Id*. An abuse of discretion will be found where the decision is 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. *Id.* A trial court may abuse its discretion in a number of ways, including: (1) failing to enter a sentencing statement at all; (2) entering a sentencing statement that includes aggravating and mitigating factors that are unsupported by the record; (3) entering a sentencing statement that omits reasons that are clearly supported by the record; or (4) entering a sentencing statement that includes reasons that are improper as a matter of law. *Id*. at 490-91.

[12] In order to show that a trial court failed to identify or find a mitigating factor, the defendant must establish that the mitigating evidence is both significant and clearly supported by the record. *Id.* at 493. While a failure to find mitigating circumstances clearly supported by the record may imply that the trial court

improperly overlooked them, the trial court "is not obligated to explain why it has chosen not to find mitigating circumstances. Likewise, the court is not obligated to accept the defendant's argument as to what constitutes a mitigating factor." *Id.* The trial court is also not obligated to consider "alleged mitigating factors that are highly disputable in nature, weight, or significance." *Id.* Thus, on appeal, a defendant must show that the proffered mitigating circumstance is both significant and clearly supported by the record. *Rawson v. State*, 865 N.E.2d 1049, 1056 (Ind. Ct. App. 2007).

[13] Here, Groleau initially points to the trial court's perceived failure to consider his guilty plea as a mitigating factor, claiming that "[h]e pled guilty on all four Cause Numbers, saving the State considerable time and expense in conducting four trials and yet he received the maximum possible sentence as if he were convicted by a jury each time." (Appellant's Br. p. 12). However, we have previously concluded that a "guilty plea is not necessarily a mitigating factor where the defendant receives substantial benefit from the plea or where evidence against the defendant is so strong that the decision to plead guilty is merely pragmatic." *Amalfitano v. State*, 956 N.E.2d 208, 212 (Ind. Ct. App. 2011), *trans. denied*. It cannot be denied that Groleau received considerable benefits when he pled guilty as the agreement deferred sentencing in all four Causes and provided him an opportunity—which he did not avail himself of—to resolve all charges through Drug Court instead of serving time at the DOC. A second benefit of pleading guilty was awarded to Groleau in the nature of dismissals for the additional charges for possession of paraphernalia, operating

a vehicle with an ACE of .08, operating a motor vehicle without receiving a license, and criminal mischief. Accordingly, based on these benefits already received, we cannot say that the trial court was required to identify his guilty plea as a mitigating factor.

[14] Groleau proffers, as a second possible mitigator the trial court failed to consider, the fact that his crimes neither caused nor threatened serious harm to persons or property, or he did not contemplate that it would do so. *See* I.C. § 35-38-1-7.1(b)(1). Groleau failed to persuade us that this proffered mitigator is both significant and clearly supported by the record. *Rawson*, 865 N.E.2d at 1056. The obstruction of justice charge involved Groleau swallowing a large amount of methamphetamine thereby endangering his life and requiring medical attention. The facts of the burglary charge—which he pled guilty to—support Groleau causing significant and pointless damage, including ransacked vending machines, smashed computer screens, and a discharged fire extinguisher. Because Groleau did not establish that his two proffered mitigating circumstances are both significant and supported by the record, the trial court did not abuse its discretion by failing to identify these mitigating factors. *See Anglemyer*, 868 N.E.2d at 493.

II. *Appropriateness of Sentence*

[15] Next, Groleau requests a revision of his sentence, as he maintains that his aggravated sentence is inappropriate in light of the nature of the offenses and his character. Indiana Appellate Rule 7(B) provides that "[t]he [c]ourt may

revise a sentence authorized by statute if, after due consideration of the trial court's decision, the [c]ourt finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." The defendant bears the burden of persuading this court that his or her sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006). Whether we regard a sentence as inappropriate turns on "the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case." *Cardwell v. State*, 895 N.E.2d 1219, 1224 (Ind. 2008). The principal role of appellate review is to "leaven the outliers," not achieve the perceived "correct" result in each case. *Id*. at 1225.

[16] The advisory sentence is the starting point selected by the General Assembly as a reasonable sentence for the crime committed. *Childress*, 848 N.E.2d at 1081. Groleau pled guilty to a Level 5 felony, three Level 6 felonies, and a Class A misdemeanor. The sentencing range for a Level 5 felony is one to six years with an advisory sentence of three years. I.C. § 35-50-2-6. The sentencing range for a Level 6 felony is six months to two-and-a-half years with an advisory sentence of one year. I.C. § 35-50-2-7. A sentence for a Class A misdemeanor can be no more than one year. I.C. § 35-50-3-2. The trial court sentenced Groleau to the maximum sentences in each Cause: six years for burglary, a Level 5 felony, two-and-a-half years for obstruction of justice, a Level 6 felony, two-and-a-half years each for unlawful possession of a syringe and possession of methamphetamine, Level 6 felonies, and one year for operating while intoxicated endangering a person, a Class A misdemeanor.

The trial court ordered the sentences in each Cause to be served consecutively—with concurrent sentences for the two convictions in Cause F6-838—for an aggregate sentence of twelve years, with eleven years served in the DOC and one year suspended to probation.

[17] With respect to the nature of the offenses, we note that Groleau's criminal activity simply did not stop and instead turned his life into one constant crime-wave. Groleau committed obstruction of justice after being located in a vehicle with methamphetamine and syringes. He obstructed the officers' investigation by giving them a false identity and then by swallowing some of the methamphetamine evidence. While released on bond in the obstruction of justice charge, officers located Groleau in a motel room with methamphetamine, a digital scale, and other drug paraphernalia. Again, after being released on bond, Groleau was pulled over for operating while intoxicated. Finally, after yet another release on bond, he broke into a laundromat and an adjoining insurance office and stole money, computer equipment, and keys. During the burglary, he caused a variety of property damage. Even after being granted leniency by a deferral to Drug Court, Groleau's criminal activity did not stop. He continued using illegal substances and absconded from the Drug Court Program and the state. Groleau's continued and escalating criminal conduct does not support a revision of his sentence.

[18] Turning to Groleau's character, we reach a similar conclusion. Groleau's criminal history started as a juvenile with adjudications for theft, and two

referrals to probation. As an adult, Groleau collected twelve arrests, a prior felony conviction for possession of methamphetamine, four misdemeanor convictions including a battery conviction, a prior violation of work release, a prior violation of probation, and eleven disciplinary reports while incarcerated. Groleau has an eighth-grade education and no employment history, except for his employment during the Drug Court Program. Although Groleau now insists on being granted a chance for treatment, we are not persuaded that Groleau's sentence is inappropriate as we find no "compelling evidence," placing Groleau's character or his offenses in a "positive light" and therefore, we conclude that the trial court's aggregate sentence is not inappropriate in light of Groleau's character and the nature of the offenses. *Stephenson v. State*, 29 N.E.3d 111, 122 (Ind. 2015).

CONCLUSION

[19] Based on the foregoing, we conclude that the trial court did not abuse its discretion when identifying mitigating circumstances during the sentencing hearing and that Groleau's sentence is not inappropriate in light of the nature of the offenses and his character.

[20] Affirmed.

[21] Bradford, J. and Weissmann, J. concur