

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Justin R. Wall
Wall Legal Services
Huntington, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General
Erica S. Sullivan
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Joshua Allen Mansfield,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

December 29, 2023

Court of Appeals Case No.
23A-CR-1692

Appeal from the Huntington
Superior Court

The Honorable James R. Heuer,
Senior Judge

Trial Court Cause No.
35D01-2306-F6-183

Memorandum Decision by Judge Crone
Judges Riley and May concur.

Crone, Judge.

Case Summary

- [1] Joshua Allen Mansfield appeals his one-and-a-half-year sentence imposed following his guilty plea to level 6 felony operating a vehicle as a habitual traffic violator. He asserts that the trial court abused its discretion by failing to provide a sentencing statement with reasons to support a sentence above the advisory sentence. We agree, but we decline his request to remand because we conclude that the trial court would impose the same sentence based on the aggravating factors supported by the record and the absence of mitigating factors. Therefore, we affirm.

Facts and Procedural History

- [2] On June 19, 2023, Mansfield was driving a vehicle with an expired license plate and was pulled over by police. When the police officer approached the vehicle, he observed bottles of alcohol under the driver's seat and the odor of alcohol on Mansfield's breath. Mansfield admitted to the officer that he did not have a driver's license because it was suspended. Mansfield also admitted that he had a shot of alcohol about an hour before the traffic stop. Mansfield submitted to a portable breath test that registered a breath alcohol content of 0.076. Police found a bottle of alcohol under the driver's seat that contained a small amount of liquid as well as an unopened bottle of alcohol.
- [3] The State charged Mansfield with level 6 felony operating a vehicle as a habitual traffic violator and class C infractions for possessing an open alcoholic beverage during operation of a motor vehicle and operating a vehicle with

expired license plates. Mansfield pled guilty as charged without an agreement. The trial court accepted his plea and proceeded to sentencing. The State argued that Mansfield had three prior felony and five prior misdemeanor convictions, and a probation revocation. This criminal history included a conviction for operating as a habitual traffic violator and four convictions for operating while intoxicated. In addition, the police found one nearly empty bottle of alcohol under the driver's seat when Mansfield was stopped, and the portable breath test gave a reading just below the legal limit. Based on these considerations, the State asked for a sentence of one and a half years with 210 days executed and the balance suspended to probation so that Mansfield could complete an intensive outpatient drug and alcohol program. The court asked Mansfield if he had anything that he wished to tell the court, and he said that he did not. The trial court imposed the sentence that the State had requested without explaining its reason for the sentence at the hearing or in the sentencing order. This appeal ensued.

Discussion and Decision

[4] Mansfield asserts that the trial court abused its discretion by failing to explain its reasons for imposing a sentence above the advisory. Sentencing decisions lie within the trial court's sound discretion, and we will reverse only for an abuse of that discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g* 875 N.E.2d 218. An abuse of discretion occurs if "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 abuses its discretion at sentencing if it fails to enter a sentencing statement when required, the sentencing statement is not supported by the record, the sentencing statement omits reasons clearly supported by the record and advanced by the defendant for consideration, or the trial court's reasons for sentencing are improper as a matter of law. *Id.* at 490-91.

[5] Before sentencing a defendant for a felony, the trial court is required to conduct a hearing to consider facts and circumstances relevant to sentencing. Ind. Code § 35-38-1-3. “[I]f the court finds aggravating circumstances or mitigating circumstances,” the court must provide “a statement of the court’s reasons for selecting the sentence that it imposes.” *Id.* In addition, the court “shall issue a statement of the court’s reasons for selecting the sentence that it imposes unless the court imposes the advisory sentence for the felony.” Ind. Code § 35-38-1-1.3. Here, Mansfield was convicted of a level 6 felony, which has an advisory sentence of one year. Ind. Code § 35-50-2-7. The trial court imposed a sentence above the advisory without explaining its reasons for doing so. By failing to explain its reasons, the trial court abused its discretion.

[6] However, when a trial court errs in sentencing a defendant, “there are several options for the appellate court.” *Windhorst v. State*, 868 N.E.2d 504, 507 (Ind. 2007). We may exercise our authority under Indiana Appellate Rule 7(B) to review and revise the sentence. *Id.* We may also remand the matter to the trial court for a clarification or a new sentencing determination. *Id.* Our supreme court has explained that remanding for a new sentencing determination is necessary “only if ‘we cannot say with confidence that the trial court would

have imposed the same sentence had it properly considered reasons that enjoy support in the record.” *Ackerman v. State*, 51 N.E.3d 171, 194 (Ind. 2016) (quoting *Anglemyer*, 868 N.E.2d at 491), *cert. denied*.

[7] At sentencing, the State argued that a sentence above the advisory was appropriate based on Mansfield’s criminal history, which included crimes related to the instant offense. The State also relied on the presence of an open bottle of alcohol under the driver’s seat and Mansfield’s degree of intoxication, which was just below the legal limit. Mansfield did not present any mitigating circumstances. We presume “that a court that conducts a sentencing hearing renders its decision solely on the basis of relevant and probative evidence.” *Schuler v. State*, 132 N.E.3d 903, 905 (Ind. 2019). “A single aggravating circumstance may be sufficient to enhance a sentence. When a trial court improperly applies an aggravator but other valid aggravating circumstances exist, a sentence enhancement may still be upheld.” *Baumholser v. State*, 62 N.E.3d 411, 417 (Ind. Ct. App. 2016) (quoting *Hackett v. State*, 716 N.E.2d 1273, 1278 (Ind. 1999)), *trans. denied* (2017). We conclude that the trial court would have imposed the same sentence based on the aggravating factors that are supported by the record and the absence of mitigating factors. *Cf. Richardson v. State*, 189 N.E.3d 629, 638-39 (Ind. Ct. App. 2022) (remanding for resentencing where trial court did not include statement of aggravators and mitigators, parties offered both aggravating and mitigating circumstances, and it

was not clear which, if any, the court found compelling). Accordingly, we affirm.¹

[8] Affirmed.

Riley, J., and May, J., concur.

¹ Mansfield's sentence does not strike us as inappropriate under Appellate Rule 7(B) based on the nature of the offense and his character. Specifically, the nature of the offense includes the presence of an opened bottle of alcohol under the driver's seat and that his intoxication was just below the legal limit. And Mansfield's prior convictions for related crimes reflect poorly on his character.