

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Skyler Jacob Barnes,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 19, 2022

Court of Appeals Case No.
22A-CR-129

Appeal from the Jefferson Circuit
Court

The Honorable Donald J. Mote,
Judge

Trial Court Cause No.
39C01-1912-F2-1458

Mathias, Judge.

- [1] Skyler Jacob Barnes appeals his sentence following a guilty plea. However, Barnes waived his right to appeal his sentence as part of his written plea agreement. We therefore dismiss Barnes’s appeal.

Facts and Procedural History

- [2] On December 10, 2019, the police received information that Barnes was dealing methamphetamine out of a red Ford pickup truck in Hanover, Indiana. State troopers found Barnes sitting in the truck at a gas station with two plastic bags of methamphetamine and a glass smoking pipe. The truck Barnes was driving had a fake vehicle registration, and after a BMV inquiry the officers learned that the truck had been stolen.
- [3] On December 12, 2019, the State charged Barnes with Count I, Level 2 felony Dealing Methamphetamine; Count 2, Level 4 felony Possession of Methamphetamine; Count III, Level 6 felony Auto Theft; and Count IV, Level 6 felony Maintaining a Common Nuisance.
- [4] On November 1, 2021, Barnes entered into a written plea agreement with the State in which Barnes agreed to plead guilty to both Level 3 felony Dealing Methamphetamine and Level 6 felony Auto Theft. In exchange, the State agreed to dismiss the remaining charges against the defendant.
- [5] The written plea agreement provided that the trial court would not sentence Barnes to more than 15 years. In his plea agreement, Barnes also waived his right to appeal his sentence “on the basis that it is erroneous or otherwise challenge the appropriateness of [his] sentence, or on the basis that the court abused its

discretion so long as the Judge sentence[d] [him] within the terms of [the] plea agreement.” Appellant’s App. p. 19.¹

[6] During the sentencing hearing the trial court considered the following aggravating circumstances: the Defendant had a history of criminal behavior and juvenile delinquency; the Defendant was on probation at the time of the offenses; previous attempts at rehabilitation by means of probation had proven unsuccessful; and the nature and circumstances of the offense itself, specifically that the Defendant was in possession of 19 grams of methamphetamine at the time of his arrest, was making significant profit from dealing methamphetamine, and was distributing to ten people a day. Appellant’s App. p. 73.

[7] The trial court also considered as mitigating circumstances that the Defendant expressed remorse and that imprisonment would result in undue hardship to the Defendant’s dependents. *Id.* at 74. However, the trial court gave “little weight to the Defendant’s plea of guilty” after considering the strength of the State’s case, believing the plea to be due more to pragmatism than an acceptance of responsibility. *Id.*

[8] The court concluded that the aggravators outweighed the mitigating factors and that “a significant measure of mitigation” had already been built into the terms

¹ We admonish Appellant’s counsel for not acknowledging the waiver in Barnes’s Appellant’s brief. By omitting facts important to our analysis Appellant’s brief fails to comply with [Indiana Appellate Rule 46\(A\)\(6\)\(b\)](#), which requires that appellate briefs provide a fair statement of the facts in the light most favorable to the judgment.

of the plea agreement. *Id.* at 75. The trial court then ordered Barnes to serve consecutive terms of twelve years for Level 3 felony Dealing in Methamphetamine and one year for Level 6 felony Auto Theft for an aggregate sentence of thirteen years. *Id.* Barnes now appeals.

Discussion and Decision

[9] Barnes’s only argument on appeal is that his sentence is inappropriate in light of his character and the nature of his offense pursuant to [Indiana Appellate Rule 7\(B\)](#). However, we agree with the State that since his sentence is well within the terms of his plea agreement, his claim challenging the appropriateness of his sentence was waived under the terms of that agreement. It is well settled that “a defendant may waive the right to appellate review of his sentence as part of a written plea agreement,” *Creech v. State*, 887 N.E.2d 73, 75 (Ind. 2008), and Barnes does not argue that the terms of his plea agreement should not be enforced. Indeed, on appeal he does not acknowledge his written waiver at all. *See Ind. Appellate Rule 46(A)(8)(a)*. Because Barnes has waived his right to appellate review, we dismiss his appeal.

Dismissed.

Brown, J., and Weissmann, J., concur.