MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ignacio Alejandro Saenz,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 30, 2022

Court of Appeals Case No. 22A-CR-817

Appeal from the Lake Superior Court

The Honorable Natalie Bokota, Judge

Trial Court Cause No. 45G02-2003-F1-15

Weissmann, Judge.

[1] Saenz was charged with six sex crimes against his daughter over three years. Facing many decades of imprisonment upon conviction for those offenses, he ultimately pleaded guilty to one count of Incest, a Level 4 felony, under a plea agreement that capped his possible imprisonment at 10 years and resulted in dismissal of the other charges. The trial court imposed an eight-year sentence, which Saenz appeals. He claims the trial court (1) relied on inaccurate information suggesting pedophiles cannot be rehabilitated and (2) ignored nine letters written on Saenz's behalf. As the trial court neither relied on inaccurate information nor ignored the letters, we affirm.

Facts

[2] For years, Saenz's daughter looked at his picture and dreamed of having him in her life. When she met Saenz at age 11, they formed a strong bond, and she believed her dream had been realized. Then the molestations began. The abuse, which continued for three years, began with touching and later progressed to kissing, oral sex, and sexual intercourse.

[3] Saenz was charged with three counts of Level 1 felony child molesting, one count of Level 4 felony child molesting, and two counts of Level 4 felony sexual misconduct with a child. The plea agreement accepted by the trial court called for Saenz to plead guilty to a new count of Incest, a Level 4 felony, and for the remaining charges to be dismissed in exchange for a sentencing cap of 10 years imprisonment.

[4] The State argued for the maximum sentence under the plea agreement, and Saenz recommended the advisory sentence of 6 years imprisonment. The trial court found as aggravating circumstances: 1) Saenz's criminal history, including his prior conviction for battery of Victim I and his prior violations of probation; and 2) the nature and circumstances of the offense. It found as mitigating circumstances that Saenz was remorseful and had been the victim of child molesting himself while being raised in a dysfunctional, abusive, and alcoholic home. Based on those findings, the trial court imposed a sentence of 8 years imprisonment.

Discussion and Decision

[5] Saenz contends the trial court abused its discretion in sentencing him. First, he claims the trial court relied on erroneous information showing pedophiles cannot be rehabilitated. Second, Saenz asserts that the trial court ignored nine letters written by family members and other supporters seeking leniency for him.

[6] 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. A sentencing court abuses its discretion by considering reasons for a sentence that are not supported by the record or are improper as a matter of law. *Id.* at 490-91. An abuse of discretion also occurs when "the sentencing statement omits reasons that are clearly supported by the record and advanced for consideration." *Id.* at 491. An abuse of discretion occurs if a decision is

"clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions drawn therefrom." *Id.* at 491 (internal quotation omitted). We find no abuse of discretion.

I. Pedophile Rehabilitation

[7] Saenz claims that "[t]he trial court specifically stated that 'sexual abuse of children is a unique type of crime' without 'science that supports the idea that a pedophile can be rehabilitated.'" Appellant's Br., p. 9. But that is not what the trial court said. Instead, it stated:

> In terms of mitigation, the Court rejects the argument that his imprisonment would result in undue hardship to his [dependents]. We find that the financial support is relatively minimal. His danger to children as a sexual predator is supported by the nature of the offense. *And [although] our Constitution and laws require the Court to consider rehabilitation, we do note that sexual abuse of children is a unique type of crime. I know of no science that supports the idea that a pedophile can be rehabilitated. I am still crafting a sentence that is open to the idea of rehabilitation.*

Tr. Vol. II, p. 46 (emphasis added).

[8] The trial court merely noted its own lack of knowledge of any science finding rehabilitation of pedophiles is possible. *Id.* It did not rely on alleged evidence showing the futility of rehabilitation efforts. And, importantly, the trial court essentially rejected any such research because it proceeded to enter a sentence that explicitly accounts for Saenz's possible rehabilitation. *Id.*

[9] These are not the circumstances of *Bluck v. State*, 716 N.E.2d 507, 512 (Ind. Ct. App. 1999), on which Saenz primarily relies. In *Bluck*, the sentencing court relied on testimony outside the record that suggested rehabilitation of a sex offender is impossible without the defendant's admission and empathy for the victim. *Id.* We ruled that when the defendant's character is at issue, trial courts must base their sentencing decisions on factors specific to the defendant, not on alleged characteristics of a general class of offenders such as child molesters. *Id.*

[10] The sentencing court's statements about rehabilitation did not lump Saenz into the category of irreformable offenders. Instead, consistent with our ruling in *Bluck*, it relied on Saenz's own characteristics and the relevant facts in sentencing him. Saenz has established no abuse of discretion.

II. Letters

[11] Saenz also claims the trial court abused its discretion by ignoring a significant reason for leniency supported by the record—the nine letters offered in support of Saenz at sentencing. *See Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007) *clarified on reh'g*, 875 N.E.2d 218. The foundation for Saenz's argument is *Kien v. State*, 782 N.E.2d 398, 415 (Ind. Ct. App. 2003), in which we ruled that the trial court should have considered 13 supportive letters as a mitigating circumstance when sentencing Kien.

[12] But *Kien* does not advance Saenz's argument. The court in *Kien* specifically stated that the defendant's lack of criminal history was the sole mitigator. We observed that "[h]ad the trial court not stated that the lack of criminal history

was the sole mitigator, this court would have been hard-pressed to conclude that the trial court did not consider the weight of the letters in some respect given the ample amount of time in which they were discussed." *Id.* at 415 n. 10.

[13] During Saenz's sentencing hearing, the trial court specifically halted the evidentiary presentation so it could review the nine letters just after their admission. Tr. Vol. II, pp. 22-23. The court then heard testimony from one of the authors. *Id.* at 27. Although it did not specifically mention the letters when specifying the reasons for Saenz's sentence, the court did rely on the content of the letters in entering those findings. For instance, the letter written by Saenz's sister was the only evidence supporting the trial court's finding as mitigating circumstances that Saenz had been molested as a child and grew up in a dysfunctional, abusive, and alcoholic home. Exhs., p. 17. Several letters noted Saenz's remorse, which the trial court also found to be a mitigating circumstance. *Id.* at 9, 14-15.

[14] Unlike in *Kien*, the court here did not ignore the supportive letters in its sentencing statement. The court, acting within its discretion, simply viewed only parts of the letters as significant mitigating circumstances. *See Anglemyer*, 868 N.E.2d at 493 (whether proffered mitigating evidence was significant enough to be considered in sentencing the defendant is "the trial court's call"). A trial court need not explicitly reject a mitigating circumstance after it is argued by counsel. *Id.*

[15] As the trial court did not abuse its discretion, we affirm the trial court's judgment.

Robb, J., and Pyle, J., concur.