MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert Mata,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 25, 2023

Court of Appeals Case No. 22A-CR-1447

Appeal from the Adams Superior Court

The Honorable Samuel K. Conrad, Judge

Trial Court Cause No. 01D01-2106-F6-97

May, Judge.

[1] Robert Mata appeals following his conviction of and sentencing for Level 6 felony operating a vehicle as a habitual traffic violator.[1] He raises one issue on appeal, which we restate as whether the trial court committed reversible error when it failed to list Mata's guilty plea as a mitigating factor during sentencing. Because any error was harmless in light of Mata's criminal history and the pragmatic reality of the evidence against him, we affirm.

Facts and Procedural History

[2] On June 26, 2021, Adams County Sheriff's Deputy Peter Amstutz was traveling on US 27 in Adams County when he observed a pickup truck, which was pulling a small trailer, pull over to the side of the highway. Deputy Amstutz parked behind the truck to determine if assistance was needed. A man, later identified as Mata, exited the driver's seat, and Mata's female companion exited the passenger seat. Deputy Amstutz helped the couple locate and set the parking brake on the riding lawn mower in the trailer so the mower would not continue to roll in the trailer as they travelled.

[3] Deputy Amstutz then noted the trailer lacked a license plate, and he asked Mata and his companion for their licenses to determine if the trailer was registered in one of their names. Prior to providing his identification, Mata told Deputy Amstutz that he would be arresting him, and Mata turned around and

[1] Ind. Code § 9-30-10-16(a)(1).

placed his hands behind his back to be handcuffed. Deputy Amstutz asked why he would be arresting Mata, and Mata explained that he did not have a license because he is a habitual traffic violator ("HTV"). Mata also admitted he was on parole at the time. Deputy Amstutz confirmed from State records that Mata is an HTV and then issued a complaint and summons for Mata to appear in court four days later. Because Mata's companion had a valid license, Deputy Amstutz allowed the truck and trailer to leave the scene with the female driving.

[4] The State charged Mata with one count of Level 6 felony operating a vehicle as an HTV. Nine months later, Mata pled guilty without a plea agreement. The probation office filed a presentence investigation report ("PSI") that revealed Mata's criminal history, which spanned fifty-two years and three states, included sixteen felony convictions[2] and eighteen misdemeanor convictions.[3]

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[2] Mata's felonies include a February 1971 Michigan sentencing for breaking and entering with intent to commit larceny therein, a June 1971 Michigan sentencing for prison escape, an October 1974 Michigan sentencing for forgery, an April 1980 Michigan sentencing for entering without breaking, an April 1983 Indiana sentencing for burglary, a March 2002 Indiana sentencing for battery, a June 2006 Indiana sentencing for operating while intoxicated, two separate June 2008 Indiana sentencings for operating a vehicle as an HTV, an August 2008 Indiana sentencing for operating a vehicle as an HTV and operating while intoxicated endangering a person, an August 2008 Indiana sentencing for operating a vehicle after being adjudged an HTV, two separate September 2012 Indiana sentencings for operating a motor vehicle after lifetime forfeiture of driving privileges, a January 2019 Indiana sentencing for operating a motor vehicle after forfeiture of license for life, and a May 2019 Indiana sentencing for operating a vehicle after being declared a habitual traffic offender.

[3] Mata's misdemeanors include a June 1974 Michigan sentencing for possession of beer in a state park, a March 1981 Michigan sentencing for unlawful taking and using a motor vehicle, a July 1982 Michigan sentencing for assault or assault and battery, an April 1992 California sentencing for inflicting corporal injury on a spouse, a May 1994 California sentencing for driving under the influence of alcohol, a May 1996 Indiana sentencing for public intoxication, a November 1996 Indiana sentencing for operating a vehicle while intoxicated, a June 1999 Indiana sentencing for battery, an April 2002 Indiana sentencing for operating a vehicle while intoxicated, a March 2005 Indiana sentencing for criminal trespass, a February 2005 Indiana

Over those years, a court had revoked or modified Mata's probation, parole, or home detention on nine occasions for violations of his conditional sentencings. Mata's first conviction of operating as an HTV was for an offense that occurred in 2007, and he was convicted of additional driving offenses that occurred in 2008 (three times), 2011, 2012, and 2018 (twice). Mata was on probation for that final offense when he committed the current crime. Following a sentencing hearing, the trial court ordered Mata to serve 730 days in the Department of Correction after making the following statement:

> The Court has considered the testimony of Mr. Mata, the arguments of counsel, the presentencing investigation report including the IRAS factors and the report. The Court finds as aggravating factors the extensive criminal history of the defendant as well as this most recent offense, the case ending in ninety-seven, occurred while he was already on probation under supervision. The Court considers that prior attempts at rehabilitation and supervision have been unsuccessful. As mitigating factors, the Court does consider the fact that the defendant is sixty-eight years of [sic] old, years of age with health issues but the Court finds that the aggravating factors in this, in this case substantially outweigh the mitigating factors here and [the] Court's concerned. I understand that there's been a time period of poor decision making [that] may have occurred but that decision making was occurring as early as last year in June and the concern is the safety of the community, primarily with an individual who doesn't seem to regard conditions the court's [sic]

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sentencing for driving while suspended, a July 2005 Indiana sentencing for public intoxication, two separate June 2006 Indiana sentencings for driving while suspended, an August 2008 Indiana sentencing for operating while intoxicated endangering a person, a September 2012 Indiana sentencing for operating a motor vehicle without financial responsibility, a separate September 2012 Indiana sentencing for invasion of privacy, and a January 2019 Indiana sentencing for operating a vehicle while intoxicated endangering a person.

have imposed on him in the past and I'm not sure that any future conditions would be successful.

(Tr. Vol. 2 at 69-70) (full capitalization removed).

Discussion and Decision

[5] Mata argues the trial court abused its discretion when it disregarded his guilty plea as a mitigating factor. Sentencing decisions '"rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion."' *McElfresh v. State*, 51 N.E.3d 103, 107 (Ind. 2016) (quoting *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g* 875 N.E.2d 218 (Ind. 2007)). An abuse of discretion occurs if the trial court's 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." *Lewis v. State*, 31 N.E.3d 539, 541-42 (Ind. Ct. App. 2015).

[6] When a trial court imposes a felony sentence, it is required to issue a sentencing statement "that includes a reasonably detailed recitation of the trial court's reasons for the sentence imposed." *Anglemyer v. State*, 868 N.E.2d 482, 484-85 (Ind. 2007), *clarified on reh'g on other grounds*, 875 N.E.2d 218 (Ind. 2007). If the court finds aggravating or mitigating circumstances, "the statement must identify all significant mitigating and aggravating circumstances and explain why each circumstance has been determined to be mitigating or aggravating." *Id*. at 490. We review "the court's finding of aggravators and mitigators to justify a sentence, but we cannot review the relative weight assigned to those

factors." *Baumholser v. State*, 62 N.E.3d 411, 416-17 (Ind. Ct. App. 2016) (citing *Anglemyer*, 868 N.E.2d at 490-91), *trans. denied*.

[7] When reviewing the aggravating and mitigating circumstances relied on by the trial court, we will remand only if "the record does not support the reasons, or the sentencing statement omits reasons that are clearly supported by the record, and advanced for consideration, or the reasons given are improper as a matter of law." *Id.* The court "is neither obligated to accept the defendant's arguments as to what constitutes a mitigating factor nor required to give the same weight to a proposed mitigating factor as does the defendant." *Hunter v. State*, 72 N.E.3d 928, 935 (Ind. Ct. App. 2017). On appeal, the defendant must "establish that the mitigating evidence is both significant and clearly supported by the record." *Id.*

[8] "While the trial court must assess the potential mitigating weight of a guilty plea, the significance of a guilty plea varies from case to case." *Jackson v. State*, 973 N.E.2d 1123, 1131 (Ind. Ct. App. 2012), *trans. denied*.

> "A guilty plea is not automatically a significant mitigating factor." *Sensback v. State*, 720 N.E.2d 1160, 1164-1165 (Ind. 1999). "A guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him 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*.

[9] Herein, the trial court erred in not mentioning Mata's guilty plea as it discussed the aggravators and mitigators relevant to sentencing, because Mata had pled guilty without benefit of a plea agreement. Nevertheless, that error does not amount to an abuse of discretion in this case. Deputy Amstutz watched Mata climb out of the driver's seat of a truck that had been traveling on the highway, and Mata admitted to Deputy Amstutz at the scene that he was driving as an HTV and was on parole. Under such circumstances, it seems inconceivable that Mata would not be convicted by a factfinder, which makes his plea merely pragmatic, rather than a significant mitigator. *See Wells v. State*, 836 N.E.2d 479, 594 (Ind. Ct. App. 2005) ("a guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him is such that the decision to plead guilty is merely a pragmatic one"), *trans. denied*.

[10] Moreover, even if the court had abused its discretion by failing to mention Mata's guilty plea as a mitigator, any error would be harmless. Harmless error is "an error that does not affect the substantial rights of a party." *Rosales v. State*, 3 N.E.3d 1014, 1019 (Ind. Ct. App. 2014) (quoting *Lander v. State*, 762 N.E.2d 1208, 1213 (Ind. 2002)). No error in anything omitted by the trial court "is ground for granting relief or reversal on appeal where its probable impact, in light of all the evidence in the case, is sufficiently minor so as not to affect the substantial rights of the parties." Ind. App. R. 66. In light of Mata's criminal history and his failure to rehabilitate his behavior despite multiple opportunities over multiple decades, the trial court's sentencing statement leaves us with no

doubt the court would have imposed the same sentence even if it had listed his guilty plea as a mitigator.

Conclusion

[11] In light of Mata's fifty years of criminal behavior, including nineteen prior convictions of driving offenses, and the pragmatic nature of his guilty plea, the trial court's failure to mention Mata's guilty plea during sentencing was neither an abuse of discretion nor harmful to Mata's substantial rights. Accordingly, we affirm.

[12] Affirmed.

Crone, J., and Weissmann, J. concur.