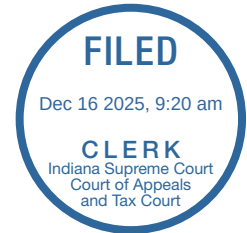
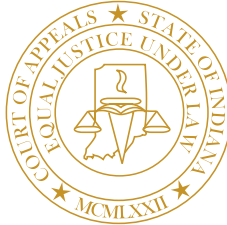


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Alexander Tyrek Marshall,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

December 16, 2025

Court of Appeals Case No.
25A-CR-1385

Appeal from the Lake Superior Court
The Honorable Gina L. Jones, Judge

Trial Court Cause Nos.
45G03-2007-F2-48
45G03-2012-F6-2749

Memorandum Decision by Judge Scheele
Judges Brown and Felix concur.

Scheele, Judge.

Case Summary

- [1] Alexander Tyrek Marshall appeals his seven-year executed sentence for Level 5 felony robbery and Level 6 felony auto theft, arguing the trial court abused its sentencing discretion. We affirm.

Facts and Procedural History

- [2] In August 2023, pursuant to a written plea agreement, Marshall agreed to plead guilty to Level 5 felony robbery and Level 6 felony auto theft.¹ His convictions stem from two incidents. In the first, Marshall and Javonte Camell were at Tyler Koonce's residence in Cedar Lake. Koonce opened a safe in his bedroom, and Marshall pointed a handgun at Koonce and demanded the contents of the safe. Marshall and Camell left with between \$600.00 and \$800.00 in cash. In the second, police located Marshall in a hotel parking lot in Merrillville. Marshall was in the driver's seat of a car belonging to Sylvia Pfeffer. He did not have permission to use her car and intended to deprive her of its use or value.
- [3] Marshall's presentence investigation (PSI) report revealed that Marshall had a criminal history. As a juvenile, he was adjudicated as a delinquent for what

¹ Marshall's convictions stem from two cases: 45G03-2007-F2-48, wherein he was charged with Level 2 felony robbery resulting in bodily injury, Level 3 felony armed robbery, Level 5 felony battery by means of a deadly weapon, Level 5 felony battery resulting in serious bodily injury, Level 6 felony pointing a firearm, and (after an amendment) Level 5 felony robbery; and 45G03-2012-F6-2749, wherein he was charged with Level 6 felony auto theft, Level 6 felony possession of a narcotic drug, Class A misdemeanor resisting law enforcement, and Class C misdemeanor possession of paraphernalia.

would have been theft if committed by an adult. When he was seventeen years old, Marshall was waived into adult court, convicted of Level 5 felony robbery, and sentenced to three years in the Indiana Department of Correction (DOC) to be served in Lake County Community Corrections (LCCC). After admitting to violations, Marshall was expelled from LCCC's work program and ordered to serve the balance of his sentence in the DOC. Marshall was twenty-seven years old at the time of sentencing in the instant cases.

[4] On May 7, 2025, the court accepted Marshall's plea agreement and proceeded to sentencing.² The court found Marshall's guilty plea as a mitigating factor. As aggravating factors, the court found: Marshall had a criminal history consisting of one juvenile adjudication and one felony conviction; and Marshall violated conditions of community corrections placement and his pretrial release. The court found the aggravators outweighed the mitigator. Marshall was sentenced to five years in the DOC for his Level 5 felony robbery conviction and two years in the DOC for his Level 6 felony auto-theft conviction, served consecutively.³ The court also ordered that Marshall could petition for Community Transition Court after three years in the DOC. Marshall now appeals.

² Marshall's plea agreement left sentencing to the discretion of the trial court, and his right to appeal his sentence was not waived by agreeing to the plea agreement.

³ The advisory sentence for Level 5 felony robbery is three years, and the maximum sentence is six years. Ind. Code § 35-50-2-6(b) (2014). The advisory sentence for Level 6 felony auto theft is one year, and the maximum sentence is two-and-a-half years. Ind. Code. § 35-50-2-7(b) (2019).

Discussion and Decision

[5] Sentencing decisions are left to the sound discretion of the trial court and are reviewed only for an abuse of discretion. *Owen v. State*, 210 N.E.3d 256, 269 (Ind. 2023), *reh’g denied* (citing *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), *clarified on reh’g*, 875 N.E.2d 218 (Ind. 2007)). “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.* (internal quotations omitted). A trial court may abuse its discretion by

(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.

Hudson v. State, 135 N.E.3d 973, 979 (Ind. Ct. App. 2019) (citing *Anglemyer*, 868 N.E.2d at 490-91).

[6] Marshall challenges the court’s consideration of his juvenile adjudication for what would have been theft if committed by an adult, alleging “the trial court had no facts before it about the underlying nature” of the adjudication. Appellant’s Br. p. 9. “[C]riminal behavior reflected in juvenile delinquency adjudications can serve as the basis for enhancing an adult criminal sentence.” *Morrell v. State*, 118 N.E.3d 793, 798 (Ind. Ct. App. 2019). “The Supreme Court has emphasized that it is the *criminal behavior* reflected in earlier proceedings

rather than the adjudications that is the proper proof of a prior history of criminal behavior.” *Id.* (citing *Jordan v. State*, 512 N.E.2d 407, 410 (Ind. 1987), *reh’g. denied*, 516 N.E.2d 1054 (Ind. 1987)) (emphasis in original). Although an adjudication itself is not a fact that can be used to enhance a sentence, the “adjudication indicates that the history is correct” and “elevates the history from allegation to fact.” *Jordan*, 516 N.E.2d at 1055 (Shepard, C.J., concurring).

[7] Here, the PSI report revealed more than the existence of an adjudication; it showed that Marshall made an “admission to theft,” which was the underlying criminal behavior supporting the adjudication. App. Vol. II p. 48. We cannot say that the court considered only the adjudication itself where the PSI report revealed the fact that Marshall admitted to committing criminal behavior—namely, a theft. Thus, the court’s consideration of this aggravator was not improper.

[8] Marshall also takes issue with the court’s consideration of his prior felony conviction for robbery because he committed the offense when he was a juvenile. He asserts that “our Supreme Court has shown that although youth by itself is not a statutory mitigating circumstance, it is a significant mitigating circumstance in some cases.” Appellant’s Br. p. 9 (citing *Brown v. State*, 720 N.E.2d 1157, 1159 (Ind. 1999)). Marshall seemingly requests that we now consider his youth at the time he committed the offense as a mitigator for the first time on appeal.

- [9] A “trial court does not abuse its discretion in failing to consider a mitigating factor that was not raised at sentencing.” *Anglemeyer*, 868 N.E.2d 492. “[I]f the defendant fails to advance a mitigating circumstance at sentencing, this court will presume that the factor is not significant, and the defendant is precluded from advancing it as a mitigating circumstance for the first time on appeal.” *Id.* (quoting *Creekmore v. State*, 853 N.E.2d 523, 530 (Ind. Ct. App. 2006), *clarified on denial of reh’g.*). Because Marshall did not advance his then-youth as a mitigator at trial, no abuse of discretion occurred.
- [10] To the extent that Marshall intended to challenge the trial court’s consideration of his prior felony conviction as an aggravator, his argument would fail. A court may consider a defendant’s prior criminal conviction at sentencing and may rely on details of specific criminal conduct from the PSI report without reciting them orally at sentencing. *Day v. State*, 669 N.E.2d 1072, 1073-74 (Ind. Ct. App. 1996). Here, Marshall’s PSI report revealed that he was previously convicted of specific criminal conduct—namely, a felony robbery. The court did not abuse its discretion in considering his prior conviction as an aggravator.
- [11] Affirmed.

Brown, J., and Felix, J., concur.

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