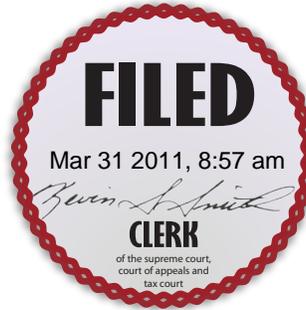


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

ATTORNEYS FOR APPELLEE:

CHRISTOPHER D. KEHLER
Kehler Law Firm, PC
Warsaw, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

WADE JAMES HORNBACHER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

MICHAEL VEST,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)
)
)

No. 43A04-1009-CR-603

APPEAL FROM THE KOSCIUSKO SUPERIOR COURT
The Honorable James Jarrette, Judge
Cause No. 43D02-0912-CM-1789

March 31, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Michael Vest pled guilty to misdemeanor conversion for taking merchandise from a local discount store. The trial court sentenced him to one year in the county jail. Vest contends that the trial court should have found his guilty plea to be a mitigating circumstance. Finding no error, we affirm.

Facts and Procedural History

On December 11, 2009, Vest stole merchandise from a Warsaw K-Mart. On December 15, 2009, the State charged him with class A misdemeanor conversion. On July 28, 2010, he pled guilty pursuant to a plea agreement. Sentencing was left open to the trial court's discretion. On August 25, 2010, the trial court imposed the maximum one-year executed sentence. *See* Ind. Code § 35-50-3-2 (“A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year.”). Vest now appeals.

Discussion and Decision

Vest contends that the trial court erred in imposing the maximum sentence. Sentencing decisions are within the trial court's discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on reh'g*, 875 N.E.2d 218. “So long as the sentence is within the statutory range, it is subject to review only for an abuse of discretion.” *Id.* 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.* (citations and quotation marks omitted).

Vest asserts that the trial court should have found his guilty plea to be a mitigating circumstance. We have stated that a “trial court is not required to articulate and balance aggravating and mitigating circumstances before imposing a sentence on a misdemeanor conviction.” *Creekmore v. State*, 853 N.E.2d 523, 527 (Ind. Ct. App. 2006), *clarified on reh’g*, 858 N.E.2d 230, *trans. denied*. As such, we find no abuse of discretion.¹

Affirmed.

ROBB, C.J., and NAJAM, J., concur.

¹ We note that Vest does not challenge the appropriateness of his sentence pursuant to Indiana Appellate Rule 7(B), which says, “The Court may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.”