



## **STATEMENT OF THE CASE**

Eugene Wells, Jr., appeals his sentence following his conviction for Possession of Methamphetamine With Intent to Deliver, as a Class B felony, pursuant to a guilty plea. Wells raises a single issue for our review, which we restate as whether his sentence was inappropriate in light of the nature of the offense and Wells' character.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

On March 1, 2006, the State arrested Wells after authorities found several items related to the sale of methamphetamine in Wells' residence pursuant to a search warrant. The State charged Wells with eight felonies and a misdemeanor. On August 7, Wells pleaded guilty to Count One, possession of methamphetamine with intent to deliver, as a Class B felony. In exchange, the State dropped all of the remaining charges. Wells agreed to leave his sentencing to the trial court's discretion.

On November 14, the trial court issued a sentencing statement in which it sentenced Wells to twenty years, the maximum sentence for a Class B felony. Specifically, the trial court stated in relevant part:

In sentencing the Defendant, the Court has considered all matters appropriate for determination of sentence.

The Court considers aggravating factors:

1. The Court finds that the following aggravating factors exist in the matter:

The Court considers Defendant's significant criminal history to be a substantial aggravating factor in this matter. Pre-Sentence Investigation indicates approximately twenty-six (26) prior convictions and three (3) probation violations. The

Court notes that the Defendant's records indicate that . . . he has been consistently involved in criminal activity from 1979 to present. The Court also finds two (2) prior convictions for possession bulk aggravated trafficking in Hamilton, Ohio, in 1989, all of these factors indicate that Defendant represents a substantial danger to the community.

The Court also considers mitigating factors:

1. The Court has considered Defendant's presentation of mitigating factors. The Court has considered this presentation but finds that none rise to the level of a mitigating circumstance. In particular as to the status of Mr. Wells' family, the Court finds that satisfactory arrangements have been made for the care of his child. The Court also considers the fact that Defendant was [sic] apparently provided methamphetamine to the lady to which he is engaged to be married. The Court has also considered the fact that Defendant has entered a plea of guilty. The Court finds given the substantial criminal history and the dismissal of numerous charges that Defendant's entry of a plea of guilty under these circumstances does not constitute a mitigating circumstance.

The Court considers the balance between the aggravating and mitigating factors to be that the aggravating factors significantly outweigh the mitigating factors.

Appellant's App. at 42-43. This appeal ensued.

## **DISCUSSION AND DECISION**

Wells contends that the trial court erred by not giving his guilty plea proper weight and that his sentence is inappropriate in light of the nature of the offense and his character. Regarding whether the trial court gave Wells' guilty plea proper weight, however, our Supreme Court recently held that "the trial court no longer has any obligation to 'weigh' aggravating and mitigating factors . . . [and] can not now be said to have abused its discretion in failing to 'properly weigh' such factors." Anglemyer v.

State, 868 N.E.2d 482, 491 (Ind. 2007). We therefore do not consider whether the trial court gave Wells' guilty plea proper weight. See id.

Nonetheless, although a trial court may have acted within its lawful discretion in determining a sentence, Article VII, Sections 4 and 6 of the Indiana Constitution “authorize[] independent appellate review and revision of a sentence imposed by the trial court.” Id. (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)). This appellate authority is implemented through Indiana Appellate Rule 7(B). Id. Under Appellate Rule 7(B), we assess the trial court's recognition or non-recognition of aggravators and mitigators as an initial guide to determining whether the sentence imposed was inappropriate. Gibson v. State, 856 N.E.2d 142 (Ind. Ct. App. 2006). However, “a defendant must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.” Anglemyer, 868 N.E.2d at 494 (quoting Childress, 848 N.E.2d at 1080) (alteration in original).

Here, the trial court recognized Wells' extensive criminal history to be a “substantial aggravating factor.” Appellant's App. at 42. The court also recognized as an aggravator that Wells was a “a substantial danger to the community.” Id. at 43. In mitigation, the court considered Wells' guilty plea, in exchange for which the State dropped eight charges against Wells. The court then sentenced Wells to twenty years, the maximum sentence for a Class B felony. See Ind. Code § 35-50-2-5 (2005).

We cannot say that the trial court's imposition of twenty years in this case is inappropriate under Appellate Rule 7(B). While there is nothing particularly egregious about the nature of Wells' offense, he has demonstrated an extremely poor character.

Specifically, over the course of twenty-eight years, Wells has acquired twenty-six convictions and three parole violations. Approximately nineteen of those convictions are drug or alcohol related, including two trafficking convictions. Further, during his sentencing hearing, when asked by the trial court whether he understood how addictive methamphetamine can be, Wells responded that he had not “really seen people that much addicted to it.” Transcript at 46. Wells also admitted that he provided methamphetamine to his fiancé despite the fact that she lived with her two small children. And, finally, although Wells pleaded guilty to the instant offense, he did so in exchange for having the State drop eight other charges. In light of those facts, we cannot say that Wells’ twenty-year sentence is inappropriate.

Affirmed.

MATHIAS, J., and ROBB, J., concur.