

Justin Bunch (“Bunch”) pleaded guilty in the Bartholomew Circuit Court to Class C felony criminal recklessness, Class D felony possession of methamphetamine, and Class D felony possession of cocaine. He was ordered to serve an aggregate sentence of eight years with five and one-half years suspended and appeals arguing that his sentence is erroneous.

We affirm.

Facts and Procedural History

On August 11, 2006, Bunch was with friends smoking marijuana and using methamphetamine. Bunch had spent the past eighteen days under the influence of methamphetamine. Armed with stolen handguns, Bunch and his friends drove to an apartment to obtain more marijuana. While driving to get the marijuana, Bunch became angry when another car swerved towards the vehicle in which he was riding. Bunch pulled his handgun and fired at the other vehicle, hitting the driver in the head.

On August 16, 2007, the State charged Bunch with Count I, Class B felony aggravated battery; Count II, Class C felony criminal recklessness; Count III, Class D felony possession of methamphetamine; and Count IV, Class D felony possession of cocaine. On January 4, 2007, Bunch agreed to plead guilty to Counts II, III, and IV in exchange for the State dismissing Count I. Pursuant to the plea agreement, sentencing was left to the discretion of the trial court.

At a hearing held on February 23, 2007, the trial court sentenced Bunch to six years upon Count II, with four years suspended; two years upon Count III, with one and one-half years suspended; and two years on Count IV, with one and one-half years

suspended. The trial court ordered the sentences upon Counts III and IV to run concurrently with each other but consecutive to the sentence on Count II. Thus, Bunch was sentenced to a total of eight years, with five and one-half years suspended. Bunch now appeals.

Discussion and Decision

Bunch claims that his sentence is erroneous. Although he phrases his argument in terms of inappropriateness, he does not make a direct challenge under Appellate Rule 7(B). Instead, Bunch claims that Indiana Code section 35-50-2-1.3 required the trial court to impose the advisory sentences in Counts III and IV because those sentences were ordered to run consecutive to the sentence in Count II. Bunch bases his claim upon Indiana Code section 35-50-2-1.3(c)(1) (Supp. 2006), which provides in relevant part that “[i]n imposing . . . consecutive sentences . . . a court is required to use the appropriate advisory sentence in imposing a consecutive sentence or an additional fixed term.” In support of his claim, Bunch cites Robertson v. State, 860 N.E.2d 621, 625 (Ind. Ct. App. 2007), in which a panel of this court held that Indiana Code section 35-50-2-1.3(c) prohibits trial courts from deviating from the advisory sentence for any sentence running consecutively.

Unfortunately for Bunch, our supreme court granted transfer in Robertson on April 17, 2007, and issued its opinion in that case on August 8, 2007.¹ Robertson v. State, 871 N.E.2d 280, 286 (Ind. 2007). The court held that under Indiana Code section 35-50-2-

¹ Bunch filed his appellant’s brief on June 22, 2007—before our supreme court issued its opinion in Robertson, but after it had granted transfer.

1.3(c), “a court imposing a sentence to run consecutively to another sentence is not limited to the advisory sentence. Rather, the court may impose any sentence within the applicable range.” *Id.* at 281-82. Given this holding, we are unable to say that the trial court erred in ordering Bunch’s enhanced sentences in Counts III and IV consecutive to the sentence in Count II.

Affirmed.

NAJAM, J., and BRADFORD, J., concur.