



Curtis Bethea (“Bethea”) pled guilty in Delaware Circuit Court to armed robbery and criminal confinement, both Class B felonies, and was sentenced to consecutive twenty-year terms on each count. He appeals his sentence, arguing that it violates Indiana Code section 35-50-1-2 (Supp. 2007). We affirm.

### **Facts and Procedural History**

On February 14, 2006, the State charged Bethea with Class A felony burglary, two counts of Class B felony armed robbery, three counts of Class B felony criminal confinement, two counts of Class C felony intimidation, and Class D felony auto theft. Pursuant to the terms of a plea agreement, Bethea pled guilty to one count of Class B felony armed robbery and one count of Class B felony criminal confinement. In exchange, the State agreed to dismiss the remaining counts. Sentencing was left to the discretion of the trial court.

The trial court conducted a sentencing hearing on February 9, 2007. The trial court sentenced Bethea to consecutive twenty-year terms on each Class B felony. Bethea now appeals.

### **Discussion and Decision**

Bethea asserts that his sentence violates the limitation on consecutive sentences in Indiana Code section 35-50-1-2, which provides that the aggregate sentence for conduct constituting a single episode of criminal conduct, except in situations involving “crimes of violence,” may not exceed the advisory sentence for the class of felony that is one level higher than the most serious felony of which the defendant is convicted.

As set forth above, Bethea pled guilty to Class B felony robbery and Class B felony criminal confinement. While criminal confinement is not among the listed offenses, Indiana Code section 35-50-1-2(a)(12) designates Class B felony robbery as a “crime of violence.” Thus, the trial court’s discretion in imposing consecutive sentences was not limited by Indiana Code section 35-50-1-2(c). Ellis v. State, 736 N.E.2d 731, 737 (Ind. 2000) (“Adherence to [the rule of lenity] requires that we interpret the statute to exempt from the sentencing limitation...consecutive sentencing between a crime of violence and those that are not crimes of violence.”). See also McCarthy v. State, 751 N.E.2d 753, 756 (Ind. Ct. App. 2001), trans. denied.

Because he pled guilty to a crime of violence as defined in the statute, Bethea’s two consecutive sentences are not subject to the limitation in Indiana Code section 35-50-1-2.

Affirmed.

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