ATTORNEY FOR APPELLANT:

DOUGLAS E. ULMER
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MONIKA PREKOPA TALBOT
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

CARLEON M. RAGSDALE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A03-0912-CR-595
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0905-FD-454

June 24, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Carleon M. Ragsdale pleaded guilty, pursuant to a plea agreement, to class D felony Criminal Recklessness,[1] class D felony Resisting Law Enforcement,[2] and class A misdemeanor Possession of a Firearm By a Domestic Batterer.[3] After accepting his guilty plea, the trial court sentenced Ragsdale to an aggregate term of two years in prison. Ragsdale appeals his sentence, presenting the following restated issue for review: Is Ragsdale's sentence inappropriate?

We affirm.

The facts are that on May 6, 2009, Ragsdale was at a bus stop with a friend. Ragsdale had a revolver in his pocket and he pulled it out to show it to the friend. Another person saw the gun and called 911. Officer Jean Gigli of the Fort Wayne Police Department responded to the call. Officer Gigli arrived at the bus stop and immediately recognized the suspect based upon the description provided by the 911 caller. When the officer approached Ragsdale, Ragsdale fled. Officer Gigli ordered Ragsdale to stop several times, but Ragsdale continued to run. Officer Jason Firman arrived on the scene and joined in the chase. At some point during the pursuit, Ragsdale pointed his gun at the two officers. Eventually, Officer Firman shot Ragsdale two times. Ragsdale threw his gun down and went to the ground, ending the chase.

Ragsdale was arrested and charged with criminal recklessness, a class D felony, resisting law enforcement, a class D felony, and possession of a firearm by a domestic batterer, a class A misdemeanor. Ragsdale originally entered a plea of not guilty, which he

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[1] Ind. Code Ann. § 35-42-2-2 (West, Westlaw through 2009 1st Special Sess.).
[2] Ind. Code Ann. § 35-44-3-3 (West, Westlaw through 2009 1st Special Sess.).

withdrew and then entered a guilty plea. The trial court conducted a sentencing hearing on November 23, 2009. The Court found as mitigating circumstances: Ragsdale's plea of guilty, his acceptance of responsibility for his actions, and his remorse. The court found as aggravating circumstances: (1) his juvenile and criminal history, which included (a) a juvenile true finding that he committed acts that would constitute the offense of arson, a class B felony, if committed by an adult, and (b) eight adult misdemeanor convictions; (2) previous attempts at rehabilitation, including unsupervised probation, community service, offender services programs, and revocation of a suspended sentence on four previous occasions, had failed; (3) the nature of the crime; and (4) his arrest for possession of marijuana while this case was pending. The court found that the aggravating circumstances outweighed the mitigating circumstances and ordered Ragsdale committed to the Department of Correction for two years for both class D felony convictions, and one year for the misdemeanor conviction, all to run concurrently.

Ragsdale contends his sentence is inappropriate. We have the constitutional authority to revise a sentence if, after considering the trial court's decision, we conclude the sentence is inappropriate in light of the nature of the offense and character of the offender. Ind. Appellate Rule 7(B); *Corbin v. State*, 840 N.E.2d 424 (Ind. Ct. App. 2006). "We recognize, however, the special expertise of the trial courts in making sentencing decisions; thus, we exercise with great restraint our responsibility to review and revise sentences." *Scott v. State*, 840 N.E.2d 376, 381 (Ind. Ct. App. 2006), *trans. denied*. Ragsdale bears the burden on appeal of persuading us that his sentence is inappropriate. *Childress v. State*, 848 N.E.2d

[3] Ind. Code Ann. § 35-47-4-6 (West, Westlaw through 2009 1st Special Sess.).

1073 (Ind. 2006).

The facts as set out above reveal that Ragsdale was armed with a loaded handgun at a crowded bus stop at a busy time of the day. Because he had a domestic battery conviction, Ragsdale's possession of the firearm was illegal. When police approached, Ragsdale immediately fled through the crowd, brandishing his weapon as he ran and pointing it at the pursuing officers. He did not stop running until he was shot. Although the acts of possessing a handgun and fleeing were not, in and of themselves, especially aggravating, the fact that they occurred in the presence of many people, thereby endangering the lives of numerous innocent bystanders, renders the actions more troubling. Therefore, we find the nature of Ragsdale's offenses to be somewhat aggravating.

Turning now to his character, Ragsdale notes that he pled guilty and expressed remorse. Indeed, the trial court cited these as mitigating factors and appropriately so. A defendant who pleads guilty deserves to have at least some mitigating weight extended to the guilty plea in return. *See Cotto v. State*, 829 N.E.2d 520 (Ind. 2005). The extent to which a guilty plea is mitigating, however, will vary from case to case. *See Lavoie v. State*, 903 N.E.2d 135 (Ind. Ct. App. 2009). We have often observed that "a plea is not necessarily a significant mitigating factor." *Cotto v. State*, 829 N.E.2d at 525. Specifically, "a guilty plea does not rise to the level of significant mitigation where the defendant has received a substantial benefit from the plea or where the evidence against him is such that the decision to plead guilty is merely a pragmatic one." *Lavoie v. State*, 903 N.E.2d at 143 (quoting *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*). Although Ragsdale's

plea is certainly entitled to some mitigating weight, it is apparent that his plea was at least to some extent a pragmatic decision in light of the overwhelming evidence against him.

Ragsdale's juvenile and criminal history, as set out above, reveals that he has a propensity to run afoul of the law and this propensity remains undiminished by his exposure on several previous occasions to services geared toward rehabilitation and despite sentencing leniency extended by courts in previous cases in terms of probation and alternative placement. It is particularly telling in this regard that Ragsdale was arrested for a drug-related offense while this case was pending. These facts do not reflect well on Ragsdale's character.

The advisory sentence for the two felony convictions is one and one-half years, while the maximum sentence is three years. The statutory sentence for a class A misdemeanor is not more than one year. Ragsdale received slightly more than the advisory sentence for each of the felony convictions, as well as the maximum sentence allowable for the A misdemeanor conviction, with all sentences to run concurrently. We conclude that the resulting executed sentence of two years is not inappropriate in light of Ragsdale's character and the nature of his offenses.

Judgment affirmed.

KIRSCH, J., and ROBB, J., concur.