

**BARNES, Judge**

## **Case Summary**

William Phillips appeals his sentence for Class D felony theft and Class D felony possession of a controlled substance. We affirm.

## **Issue**

The sole issue is whether the trial court properly ordered Phillips's three-year sentences for each Class D felony to be served consecutively, for a total sentence of six years.

## **Facts**

On February 27, 2008, the State filed an information against Phillips, under cause number 34C01-0802-FD-44 ("cause number 44"), for Class D felony attempted theft and Class D felony exploitation of an endangered adult. On March 19, 2008, the State filed another information against Phillips, under cause number 34C01-0803-FD-48 ("cause number 48"), for two counts of Class D felony possession of a controlled substance and two counts of Class D felony theft.

On December 16, 2009, Phillips signed a plea agreement, which provided that Phillips would plead guilty to Class D felony attempted theft under cause number 44 and to Class D felony possession of a controlled substance under cause number 48. The State agreed to dismiss the remaining charges, and sentencing was left to the trial court's discretion, except with respect to whether the sentences would run consecutively. On that point, the plea agreement expressly stated, "Sentences in Cause Numbers 34C01-0802-FD-44 and 34C01-0803-FD-48 shall run consecutive." App. p. 28. The trial court

accepted the plea agreement, and on February 17, 2010, it sentenced Phillips to three years for each Class D felony conviction, with the sentences to be served consecutively for a total of six years. Phillips now appeals.

### **Analysis**

Phillips contends that the trial court could not order the sentences for cause numbers 44 and 48 to run consecutively for a total of six years because the charges in both cases were part of a single episode of criminal conduct. Thus, he argues, the maximum aggregate sentence he could have faced in this case was four years, which is the advisory sentence for a Class C felony. See Ind. Code § 35-50-1-2(c) (limiting the maximum sentence for multiple convictions arising from a single episode of criminal conduct to the advisory sentence for a felony one class higher than the most serious felony for which the defendant was convicted, except in cases of crimes of violence).

We conclude it is unnecessary to address Phillips's argument. It is axiomatic that "once a sentencing court accepts a plea agreement, it possesses only that degree of sentencing discretion provided in the agreement." St. Clair v. State, 901 N.E.2d 490, 493 (Ind. 2009). "A plea agreement is contractual in nature, binding the defendant, the state, and the trial court, once the judge accepts it." Id. at 492. If a trial court accepts a plea agreement providing for a specific sentence, it may only impose the sentence required by the agreement. Shepperson v. State, 800 N.E.2d 658, 659 (Ind. Ct. App. 2003). Furthermore,

“[D]efendants who plead guilty to achieve favorable outcomes give up a plethora of substantive claims and procedural rights, such as challenges to convictions that would otherwise constitute double jeopardy. Striking a favorable bargain including a consecutive sentence the court might otherwise not have the ability to impose falls within this category.”

Lee v. State, 816 N.E.2d 35, 40 (Ind. 2004) (quoting Davis v. State, 771 N.E.2d 647, 649 n. 4 (Ind. 2002)).

The plea agreement here, while leaving the specifics and total length of the sentence to the trial court’s discretion, required the trial court to impose consecutive sentences for cause numbers 44 and 48. Phillips freely bargained for this plea and benefited from it, as evidenced by the State’s dismissal of four other charges. He cannot now challenge the trial court’s imposition of consecutive sentences when the plea agreement he signed required it. There clearly was the potential that Phillips’s eventual sentence for two Class D felonies could exceed four years; Phillips could have refused to agree to the imposition of consecutive sentences, or otherwise argued for a four-year cap on sentencing, if he did not want that potential to come to fruition. Given Phillips’s plea, however, it is irrelevant whether Phillips’s sentence violates the single episode of criminal conduct rule.

### **Conclusion**

The trial court sentenced Phillips in accordance with his plea agreement, and he is now precluded from arguing that the sentence violates the single episode of criminal conduct rule. We affirm.

Affirmed.

FRIEDLANDER, J., and CRONE, J., concur.