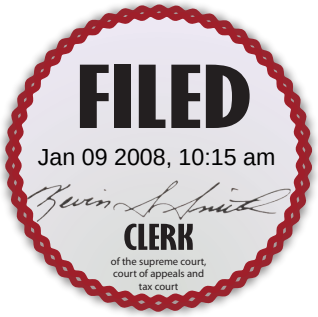

APPELLANT PRO SE:

JAMES L. HOLLIDAY
New Castle Correctional Facility
New Castle, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

MONIKA PREKOPA TALBOT
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

JAMES L. HOLLIDAY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 34A02-0706-CR-497
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE HOWARD SUPERIOR COURT
The Honorable William C. Menges, Jr., Judge
Cause No. 34D01-0602-FA-88

January 9, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

James L. Holliday appeals the thirteen-year sentence he received pursuant to a plea agreement for class B felony cocaine possession and class D felony operating a motor vehicle as a habitual traffic violator ("HTV"). We affirm.

On February 2, 2006, the State charged Holliday with Count I, class A felony cocaine dealing, Count II, class B felony cocaine possession, and Count III, class D felony operating a motor vehicle as an HTV. On August 10, 2006, Holliday pled guilty to Counts II and III. The plea agreement provided that he would be sentenced to ten years on Count II and to three years on Count III, to be served consecutively. On September 20, 2006, the trial court sentenced Holliday pursuant to the plea agreement.

On appeal, Holliday argues that his crimes were an episode of criminal conduct pursuant to Indiana Code Section 35-50-1-2 and that therefore the trial court was prohibited from imposing consecutive sentences. Holliday's argument fails in two respects. First, we observe that "[a] plea agreement is contractual in nature and binds the defendant, the State, and the trial court." *Hull v. State*, 799 N.E.2d 1178, 1182 (Ind. Ct. App. 2003). Our supreme court has stated that if the trial court accepts a plea agreement in which the parties have agreed to a specific term of years, "it has no discretion to impose anything other than the precise sentence upon which they agreed." *Childress v. State*, 848 N.E.2d 1073, 1078 n.4 (Ind. 2006).

Second, assuming for argument's sake that Holliday's crimes were an episode of criminal conduct pursuant to Indiana Code Section 35-50-1-2, that statute does not prohibit the imposition of consecutive sentences. Rather, Indiana Code Section 35-50-1-2(c) states in pertinent part that

> except for crimes of violence, the total of the consecutive terms of imprisonment … to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

The most serious felony for which Holliday was convicted was a class B felony; as such, the total of the consecutive terms of imprisonment could not exceed the advisory sentence for a class A felony, which is thirty years. Ind. Code § 35-50-2-4. Holliday's sentence is thirteen years, which falls well short of that mark. Consequently, we affirm.[1]

Affirmed.

NAJAM, J., and BAILEY, J., concur

[1] In his reply brief, Holliday argues for the first time that the trial court erred in failing to find any aggravating or mitigating circumstances. Holliday's argument is not well taken. Indiana Appellate Rule 46(C) provides that no new issues shall be raised in an appellant's reply brief. Moreover, the trial court was bound by the terms of the plea agreement and was not required to find any aggravators or mitigators at sentencing. *See, e.g.*, *Smith v. State*, 829 N.E.2d 1021, 1025 (Ind. Ct. App. 2005) ("[T]he sentencing court could not have relied on aggravating factors in determining Smith's sentence, as it was bound by the terms of the plea agreement. The sentencing court was obliged to impose a twenty-year sentence pursuant to the agreement, and it could not have increased or reduced the sentence based on aggravating or mitigating circumstances."), *trans. denied*.