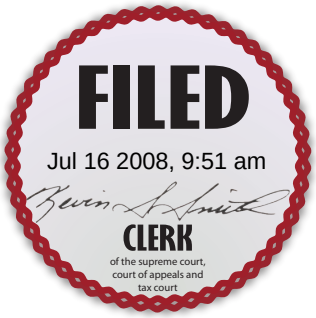

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IN THE
COURT OF APPEALS OF INDIANA

MATTHEW S. TAYLOR,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 26A01-0802-CR-49
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE GIBSON SUPERIOR COURT
The Honorable Jeffery F. Meade, Judge
Cause No. 26C01-0707-FD-50

JULY 16, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

Matthew Taylor was charged with the following counts: 1) criminal confinement, a Class D felony; 2) residential entry, a Class D felony; 3) resisting law enforcement, a Class D felony; and 4) reckless driving, a Class B misdemeanor. Several days later the state added counts 5) resisting law enforcement, a Class D felony: and 6) reckless driving, a Class B misdemeanor. Taylor pled guilty to counts 1, 3, 4 and 5, and the state dismissed counts 2 and 6. There was no plea agreement.

At the sentencing hearing, the trial court found as aggravating circumstances that Taylor had a substantial criminal history of violence, not just charges and convictions. (Tr.17-19). The court found Taylor's guilty plea and his desire to care for his mother to be mitigating factors. (Tr. 19). The court found that the aggravating circumstances outweighed those in mitigation, and sentenced Taylor to thirty-six months on count 1, thirty-six months on count 3, and six months on count 4, sentences to run concurrently. The court further sentenced Taylor to twelve months on count 5 to be served consecutively to the sentence in counts 1, 3 and 4. On appeal Taylor contends that his sentence is excessive.

Taylor first argues that the court failed to properly weigh the aggravating factors against the mitigating factors. Since our supreme court's decision in *Anglemyer v. State*, 868 N.E.2d 482, 491 (Ind. 2007), that argument is no longer viable. The relative weight or value assignable to reasons properly found or those which should have been found is not subject to review for abuse. *Id.*

Relying on *Diaz v. State*, 839 N.E.2d 1277 (Ind. Ct. App. 2005), Taylor further argues that when the court finds the aggravating and mitigating circumstances are in

equipoise, the sentences imposed must run concurrently. We accept his statement of the law, but in this case the court did not find the factors to be in equipoise. Rather, it found that the aggravators clearly outweighed the mitigators. Therefore, *Diaz* has no application. We recognize, of course, that Taylor's argument is premised upon his assertion in his first argument that more weight should have been assigned to his pleading guilty. Since that argument necessarily failed, the second argument also fails.

In addition, we have reviewed the record. It does not appear that the sentence is inappropriate in light of the nature of the offenses and the character of the defendant.

Affirmed.

VAIDIK, J., and CRONE, J., concur.