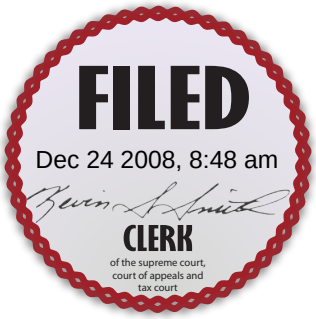

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IN THE
COURT OF APPEALS OF INDIANA

JONATHAN WASHINGTON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-0806-CR-301
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Diane Ross Boswell, Judge
Cause No. 45G03-0710-FA-33

December 24, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Jonathan Washington ("Washington") appeals the eight-year sentence imposed following his plea of guilty to Attempted Battery, as a Class C felony.[1] We affirm.

Issues

Washington presents two issues for review:

I. Whether the trial court abused its discretion by ignoring mitigating circumstances supported by the record; and

II. Whether the sentence is inappropriate.

Facts and Procedural History

On October 25, 2007, Washington drove his vehicle toward East Chicago Police Officer Danny Schumann in an attempt to strike him.

On October 26, 2007, the State charged Washington with Attempted Murder, Attempted Aggravated Battery, Auto Theft, and Resisting Law Enforcement. The State subsequently alleged that Washington was a habitual offender. The State and Washington entered into a plea agreement whereby Washington was to plead guilty to an amended count of Attempted Battery, and the remaining charges and the habitual offender allegation were to be dismissed. Sentencing was left to the discretion of the trial court.

On May 12, 2008, the trial court sentenced Washington to eight years imprisonment. He now appeals.

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[1] Ind. Code §§ 35-41-5-1, 35-42-2-1.

Discussion and Decision

I. Abuse of Discretion

In its sentencing statement, the trial court found that Washington's decision to plead guilty was a mitigating circumstance. Washington contends that the trial court should also have recognized that he had earned two degrees during prior incarcerations, had obtained licenses for providing cosmetology and sanitation services, and had recently been employed full-time.

In Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on reh'g, 875 N.E.2d 218 (Ind. 2007), our Supreme Court determined that trial courts are required to enter sentencing statements whenever imposing sentence for a felony offense. The statement must include a reasonably detailed recitation of the trial court's reasons for imposing a particular sentence. Id. If the recitation includes the finding of aggravating or mitigating circumstances, then the statement must identify all significant mitigating and aggravating circumstances and explain why each circumstance has been determined to be mitigating or aggravating. Id. So long as it is within the statutory range, a sentencing decision is subject to review on appeal for an abuse of discretion. Id. One way in which a trial court may abuse its discretion is to fail to enter a sentencing statement at all. Id. Another is to enter a sentencing statement that explains reasons for imposing a sentence and the record does not support the reasons, the statement omits reasons clearly supported by the record and advanced for consideration, or the reasons given are improper as a matter of law. Id. at 490-91.

A trial court is not obligated to find a circumstance to be mitigating merely because it is advanced by the defendant. Felder v. State, 870 N.E.2d 554, 558 (Ind. Ct. App. 2007). On appeal, the defendant must show that the proffered mitigating circumstance is both significant and clearly supported by the record. Id. Washington's efforts to obtain education and employment training are commendable, as is his recent gainful employment. However, many persons in our society are gainfully employed such that this would not require a trial court to find employment to be a mitigating factor. Creekmore v. State, 853 N.E.2d 523, 530 (Ind. Ct. App. 2006), clarified on denial of reh'g, 858 N.E.2d 230 (Ind. Ct. App. 2006). Washington has demonstrated no abuse of the trial court's discretion in this regard.

II. Appropriateness

A person who commits a Class C felony shall be imprisoned for a fixed term of between two and eight years, with the advisory sentence being four years. See Ind. Code § 35-50-2-6. Washington requests that we reduce his sentence in accordance with Indiana Appellate Rule 7(B), which provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender."

With regard to the nature of the offense, the advisory sentence is the starting point in our consideration of an appropriate sentence for the crime committed. Childress v. State, 848 N.E.2d 1073, 1081 (Ind. 2006). The nature of the instant offense is that Washington attempted to drive his vehicle into Officer Schumann as the uniformed officer was performing his official duties. Specifically, Officer Schumann had parked his patrol vehicle

and was approaching Washington's vehicle on foot when Washington "gunned the accelerator" and drove his vehicle toward the officer, while "ignoring shouts to stop." (App. 64.)

As to the character of the offender, Washington has a lengthy criminal history. He had fifteen prior felony convictions, including Attempted Armed Robbery, Auto Theft, Kidnapping, Vehicle Hijacking, and Unlawful Restraint. He was on parole at the time of the instant offense.

Washington decided to plead guilty, which spared the State the expense of a trial. A guilty plea demonstrates a defendant's acceptance of responsibility for the crime and at least partially confirms the mitigating evidence regarding his character. Cotto v. State, 829 N.E.2d 520, 525 (Ind. 2005). Indiana courts have recognized that a defendant who pleads guilty deserves to have mitigating weight extended to the guilty plea in return, but it is not automatically a significant mitigating factor. Davis v. State, 851 N.E.2d 1264, 1268 n.5 (Ind. Ct. App. 2006), trans. denied. Here, Washington already received a significant benefit in exchange for his guilty plea, because several charges were dismissed and the State agreed to forego a habitual offender allegation.

In sum, the nature of the charged offense and the character of the offender suggest an aggravated sentence. Washington has not persuaded us that his eight-year sentence is inappropriate.

Affirmed.

MATHIAS, J., and BARNES, J., concur.