ATTORNEY FOR APPELLANT:

PAUL D. STANKO
Crown Point, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

GARY DAMON SECREST
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

BRENT ALEC PARRISH,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-0603-CR-118
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Thomas P. Stefaniak, Jr., Judge
Cause No. 45G04-0408-FA-42

November 30, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Brent Alec Parrish claims his fifteen-year sentence for child molesting as a Class B felony[1] is inappropriate in light of his character and offense. We disagree and affirm.

DISCUSSION

Parrish does not challenge the aggravators and mitigators found by the trial court; rather he claims the court's balancing of those factors resulted in an inappropriate sentence. Ind. Appellate Rule 7(B) permits us to review and revise sentences if they are "inappropriate in light of the nature of the offense and the character of the offender." When considering the appropriateness of the sentence for the crime committed, the sentencing court should focus initially on the presumptive sentence.[2] *Bocko v. State*, 769 N.E.2d 658, 667 (Ind. Ct. App. 2002), *reh'g denied, trans. denied* 783 N.E.2d 702 (Ind. 2002). It may then consider deviation from the presumptive sentence based on a balancing of the factors that must be considered pursuant to Ind. Code § 35-38-1-7.1(a)[3]

---

[1] Ind. Code § 35-42-4-3.

[2] In 2005, in response to *Blakely v. Washington*, 542 U.S. 296 (2004), *reh'g denied* 542 U.S. 961 (2004), our legislature modified the sentencing statutes to provide for "advisory" rather than "presumptive" sentences. Because Parrish's crime occurred prior to the enactment of those new sentencing statutes, we apply the prior versions. *See Creekmore v. State*, 853 N.E.2d 523, 528-29 (Ind. Ct. App. 2006) ("the application of the new sentencing statutes to crimes committed before the effective date of the amendments violates the prohibition against *ex post facto* laws"), *reh'g petition pending*.

[3] At the time of Parrish's crime, that section provided:

> (a) In determining what sentence to impose for a crime, the court shall consider:
>
> (1) the risk that the person will commit another crime;
>
> (2) the nature and circumstances of the crime committed;
>
> (3) the person's:
>
> (A) prior criminal record;
>
> (B) character; and
>
> (C) condition;
>
> (4) whether the victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age;
>
> (5) whether the person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense;
>
> (6) whether the person violated a protective order issued against the person under

together with any discretionary aggravating and mitigating factors found to exist. *Bocko,* 769 N.E.2d at 667.

Parrish pled guilty to child molesting as a Class B felony. The presumptive sentence for a Class B felony was ten years. Ind. Code § 35-50-2-5 (Burns' 2004 Replacement Volume). Ten years could be added for aggravating circumstances, or four years could be subtracted for mitigating circumstances. *Id.* The court sentenced Parrish to fifteen years, halfway between the presumptive and maximum sentences.

Parrish asserts the mitigating factors found by the trial court "made Parrish an excellent candidate for imposition of less than the presumptive sentence, and/or alternative sentencing to work release in order that he continue to support himself and his family." (Br. of Appellant at 8.) In light of his offense and the aggravators found by the court, we cannot agree.

After hearing evidence at the sentencing hearing, the Court found:

> And the Court specifically finds that the nature and circumstances of the crime were such that the crime of Child Molesting was committed against [G.L.B.] from the age of nine to the age of thirteen and periods in between.
>
> In mitigation, the Court finds that the defendant has no history of delinquency or criminal activity. And the defendant has led a law-abiding life for a substantial period before the commission of this crime. And that the defendant is not only employable, but he is considered an excellent employee by his current employer.
>
> In further mitigation, the Court finds that the defendant pled guilty and accepted responsibility to a reduced charge of Child Molesting, a class B felony, reduced from a class A felony, which reduced his exposure from twenty to fifty years in the Indiana Department of Correction and a ten

---

IC 31-15, IC 31-16, or IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal); and

(7) any oral or written statement made by a victim of the crime.

Ind. Code § 35-38-1-7.1(a) (Burns' 2004 Replacement Volume).

> thousand dollar fine down to six to twenty years in the Indiana Department of Correction and a ten thousand dollar fine.
>
> In aggravation, the Court finds that the defendant was in a position of having care and control of the victim, in that the defendant was the stepfather of [G.L.B.].
>
> In further aggravation, the Court finds this offense occurred in the family home, a place where a child between the age of nine and thirteen ought to feel safe and have a sense of solitude and security.
>
> Furthermore, the Court finds in aggravation that this was an ongoing series of acts beginning when [G.L.B.] was nine and culminating at the age of twelve with her becoming pregnant and ultimately having the child of the defendant.
>
> In further aggravation, the Court finds that the harm, injury, loss, or damage suffered by the victim was significant as is evidenced by her victim impact statement and is greater than the elements necessary to prove the crime of Child Molesting, a class B felony.
>
> Again, defendant's actions resulted in the pregnancy, which was carried to full term.
>
> The Court further finds in aggravation, as is evidenced by the victim impact statement of [G.L.B.], that there were some attempts by the defendant of threatened harm and/or attempts to conceal the pregnancy and actions of the defendant.
>
> After considering the above factors, the Court finds that the aggravating factors outweigh the mitigating factors. And, Mr. Parrish, sir, I sentence you to fifteen years in the Indiana Department of Correction.

(Tr. at 67-9.)

Parrish asserts the court found "three (3) significant mitigating factors." (Appellant's Br. at 7.) The court found three mitigators, but it did not label them "significant." To the contrary, the third listed mitigator, Parrish's plea, does not appear significant in light of the reduction of his charge from a Class A to a Class B felony and the fact his crime could easily have been proven through genetic testing of the child that was born. *See, e.g., Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005) ("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"), *trans. denied*.

Parrish had sex with his step-daughter nearly every night from the time she was nine to twelve years old. When she became pregnant, he tried to convince her to engage in behaviors that might induce a spontaneous abortion, and he tried to convince her that her mother would kick her out of the house if she revealed the truth. The evidence showed Parrish had physically abused his wife. Nothing about his character or crime suggests a fifteen-year sentence is inappropriate. Accordingly, we affirm.

Affirmed.

BAILEY, J., and RILEY, J., concur.