

STATEMENT OF THE CASE

John W. Lee Barta appeals his sentence following his conviction for Attempted Escape, as a Class C felony, pursuant to a plea agreement. He presents a single issue for our review, namely, whether the trial court abused its discretion when it imposed an enhanced sentence of eight years.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 1, 2005, the State charged Barta with attempted escape, as a Class C felony. In June 2006, Barta pleaded guilty to that charge. Under the terms of the plea agreement, the State declined to file an habitual offender charge against Barta and the parties agreed to a seven-year sentence. At the sentencing hearing, however, the parties orally agreed to leave sentencing open to the trial court's discretion. The trial court imposed the maximum sentence of eight years. This appeal ensued.

DISCUSSION AND DECISION

Barta's sole contention on appeal is that the trial court should have assessed mitigating weight to his guilty plea and imposed less than the maximum sentence. The determination of the appropriate sentence rests within the discretion of the trial court, and we will not reverse the trial court's determination absent a showing of manifest abuse of that discretion.¹ Bacher v. State, 722 N.E.2d 799, 801 (Ind. 2000). The trial court's wide discretion extends to determining whether to increase the presumptive sentence, to impose consecutive sentences on multiple convictions, or both. Singer v. State, 674

¹ Barta committed the instant offense prior to the implementation of the new sentencing scheme.

N.E.2d 11, 13 (Ind. Ct. App. 1996). If the sentence imposed is authorized by statute, we will not revise or set aside the sentence unless it is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B); McCann v. State, 749 N.E.2d 1116, 1121 (Ind. 2001).

It is well settled that the finding of mitigating circumstances is within the discretion of the trial court. Hackett v. State, 716 N.E.2d 1273, 1277 (Ind. 1999). The trial court is not obligated to explain why it did not find a factor to be significantly mitigating. Chambliss v. State, 746 N.E.2d 73, 78 (Ind. 2001). An allegation that the trial court failed to identify or find a mitigating factor requires the defendant to establish that the mitigating evidence is both significant and clearly supported by the record. Matshazi v. State, 804 N.E.2d 1232, 1239 (Ind. Ct. App. 2004), trans. denied.

Barta cannot demonstrate that his guilty plea is entitled to significant mitigating weight because he received a substantial benefit in that the State did not file the habitual offender enhancement in exchange for his plea. See Wells v. State, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005) (holding guilty plea not worthy of significant mitigation where defendant receives substantial benefit), trans. denied. As the trial court observed, Barta faced a maximum sentence of twenty years, but for the plea agreement. And because the evidence against Barta was strong,² the State likely would not have had difficulty in obtaining a favorable judgment. In addition, the State expended resources in pursuing the matter for more than a year after filing the information, since Barta did not plead guilty

² Barta and his cellmates in the Madison County Jail were caught trying to dig a hole in the wall of their cell.

until June 2006. Thus, the State did not receive a substantial benefit as a result of the plea agreement.

We cannot say that the trial court abused its discretion when it did not find Barta's guilty plea to be a mitigator. The trial court identified as aggravators Barta's criminal history, consisting of several felonies and dating back to 1991, and the fact that he had previously violated the terms of his probation. Barta has not demonstrated that his eight-year sentence is inappropriate in light of the nature of the offense and his character.

Affirmed.

MAY, J., and MATHIAS, J., concur.