

**Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.**

ATTORNEY FOR APPELLANT:

**STEVEN J. HALBERT**  
Carmel, Indiana

ATTORNEYS FOR APPELLEE:

**STEPHEN R. CARTER**  
Attorney General of Indiana  
Indianapolis, Indiana

**ARTHUR THADDEUS PERRY**  
Special Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

EDWARD DANCY, )  
 )  
 Appellant-Defendant, )  
 )  
 vs. ) No. 49A04-0610-CR-559  
 )  
 STATE OF INDIANA, )  
 )  
 Appellee-Plaintiff. )

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Robert Altice, Judge  
Cause No. 49G02-0511-FC-190340

---

**MAY 31, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**GARRARD, Senior Judge**

Upon his guilty plea Dancy was convicted of incest, a Class C felony and sexual misconduct with a minor, a Class C felony. He was sentenced to the advisory sentence of four years on each offense, and the sentences were ordered to be served consecutively. His appeal challenges the imposition of consecutive sentences.

At the sentencing hearing the judge reviewed at length the various potential aggravating and mitigating factors. He determined that Dancy's prior criminal record of one felony was minimal and an aggravating factor. The guilty plea was an acceptance of responsibility and was a mitigating factor. The judge then said he believed these factors balanced out, but because there were two different victims he was going to impose consecutive sentences.

This case is almost on all fours with our decision in *Gleaves v. State*, 859 N.E.2d 766, 771 (Ind. Ct. App. 2007). In that case the court found the aggravators and mitigators to be "very equal in their weight." The court then turned to the question of consecutive sentences. It ordered the sentences to run consecutively since the crimes involved two distinct acts with two different victims. This court interpreted the trial court's comments to constitute the finding of an additional aggravating circumstance, i.e. separate victims, and affirmed. (Our supreme court has held that "[W]hen the perpetrator commits the same offense against two victims, enhanced and consecutive sentences seem necessary to vindicate the fact that there were separate harms and separate acts against more than one person." *Serino v. State*, 798 N.E.2d 852, 857 (Ind. 2003)).

Dancy has misread *Gleaves*. He seeks to avoid its consequence, however, by contending that his criminal record was so slight, that the court must have been referring

to the different victims when it said that the aggravating and mitigating factors were balanced. We disagree.

It is well established that the weight to be given an aggravating or mitigating factor is a matter within the discretion of the trial court. A single prior felony is sufficient to constitute an aggravator. *Page v. State*, 689 N.E.2d 707, 712 (Ind. 1997).

The sequence of events belies Dancy's contention. Here the judge discussed at length potential aggravators and mitigators and concluded that "they balance out." He then turned to the fact of two victims and determined to make the sentences served consecutively. As in *Gleaves* we interpret this to constitute the finding of an additional aggravator that justified consecutive sentences.

Affirmed.

FRIEDLANDER, J., and CRONE, J., concur.