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IN THE
COURT OF APPEALS OF INDIANA

PALAS BRYANT,	)	
	)	
Appellant/Defendant,	)	
	)	
vs.	)	No. 48A02-0904-CR-374
	)	
STATE OF INDIANA,	)	
	)	
Appellee/Plaintiff.	)	

APPEAL FROM THE MADISON SUPERIOR COURT
The Honorable Thomas Newman, Jr., Judge
Cause No. 48D03-0706-FB-149

October 20, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Defendant Palas Bryant appeals following her convictions for Burglary, a Class B felony,[1] and Theft, a Class D felony.[2] On appeal, Bryant contends that the trial court abused its discretion in sentencing her and that her sentence is inappropriate in light of the nature of her offenses and her character. We affirm.

FACTS AND PROCEDURAL HISTORY

According to the factual basis entered during the October 1, 2007 plea hearing,

> [O]n or about June 9th of 2007, Officers from the Anderson Police Department were dispatched to 1638 Fulton Street in Anderson, Indiana, in reference to a female entering a dwelling without permission and stealing a saw. Upon arrival, the defendant, Palas Bryant, was outside of the residence. A Judith Salvagin identified Ms. Bryant as the one who burglarized her house. She stated that she was in the living room of her home with her four (4) month old child. That she heard the back door open and then saw the defendant in her house. Judith stated that the defendant had opened the unlocked back door of her home in order to get inside. She added that Palas roamed around her home asking to use the telephone, that when told to leave, Ms. Bryant refused, instead she rummaged threw [sic] Judith's house asking for shoes. Judith picked up the–picked up a cell phone to call for help. When Ms. Bryant saw that, she started towards the back door exit. Prior to exiting, she picked up a Craftman's [sic] circular saw that was by the back door and exited the house. Ms. Salvagin indicated that she did not know Palas Bryant prior to this date. Police also talked to a Barbara Tony who saw the defendant enter 1638 Fulton and exit the house with a saw. She was at her house at 1704 Fulton Street when she observed this, that being Ms. Tony. The saw was recovered at 2127 West 16th Street from a David Jordan. Mr. Jordan stated that the defendant had brought it to his house and left it there some time that day.

Tr. pp. 23-24.

On June 12, 2007, the State charged Bryant with Class B felony burglary and Class D

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[1] Ind. Code § 35-43-2-1(1)(b) (2006).

[2] Ind. Code § 35-43-4-2(a) (2006).

felony theft. Bryant entered a guilty plea on October 1, 2007, in exchange for a referral to the Madison County Mental Health Court. The State agreed that the instant charges would be dismissed if Bryant were accepted into the Mental Health Court and successfully completed the mental health treatment program. Bryant was unsuccessfully terminated from the Mental Health Court on December 8, 2008, for a failure to appear and also for "multiple violations of the Mental Heath Court and treatment." Appellant's App. 10. Following her unsuccessful termination from the Mental Health Court, Bryant was transferred back to the trial court for sentencing.

On February 2, 2009, the trial court conducted a sentencing hearing. At the conclusion of this hearing, the trial court made the following oral sentencing statement:

> The aggravation is the long history of criminal delinquent activity, which includes probation and parole violations. She was on probation through Anderson City Court at the time this offense was committed. She's violated conditions of release of her own recognizance when she committed new offense [sic] in Anderson City Court. She was terminated from Madison County Mental Health Court and was found in contempt by Madison County Superior Court III for failure to complete Mental Health Court. Mitigation, she pled guilty and she is diagnosed with a mental issue but all that being what it is, the Court has no – the Court at this time sends her to the Department of Corrections for twenty (20) years.

Tr. pp. 58-59. Bryant now appeals.

DISCUSSION AND DECISION

I. Abuse of Discretion

Bryant contends that the trial court abused its discretion in failing to consider her guilty plea and mental illness to be significant mitigating factors when it imposed the

maximum twenty-year sentence. Sentencing decisions rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *modified on other grounds on reh'g*, 875 N.E.2d 218 (Ind. 2007). "An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court, or the reasonable probable, and actual deductions to be drawn therefrom." *Id*. (quotation omitted). The trial court is under no obligation to "weigh" aggravating and mitigating factors against each other when imposing a sentence, and therefore, a trial court cannot now be said to have abused its discretion in failing to "properly weigh" such factors. *Id*. at 491.

Here, contrary to Bryant's assertion otherwise, the trial court specifically found Bryant's plea and her mental illness to be significant mitigating factors. To the extent that Bryant asks us to reweigh the mitigating value that the trial court assigned to her guilty plea and her mental illness, *Anglemyer* prevents us from making such an assessment because the weight that a trial court chooses to assign to mitigating circumstances cannot constitute an abuse of discretion. 868 N.E.2d at 491. Therefore, the trial court did not abuse its discretion in this regard.

II. Appropriateness

Bryant also contends that her twenty-year sentence is inappropriate in light of the nature of her offenses and her character. Indiana Appellate Rule 7(B) provides that "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the

offense and the character of the offender." The defendant bears the burden of persuading us that her sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).

With respect to the nature of her offenses, Bryant claims that she only committed the instant offenses because of her failure to take her mental health medications and her dependence on drugs and alcohol. Bryant, however, has failed to show how her choices relating to her mental health medications and drug and alcohol use lessen the severity of her offenses. The record demonstrates that Bryant walked into an occupied home uninvited. Once inside, Bryant roamed around the home, asked to use the telephone, and rummaged through the home asking for shoes. Bryant refused to leave the home after being instructed to do so by the home's occupant, who was in the living room of the home with her four-month-old child. Bryant exited the home only after the home's occupant used a mobile telephone to call for help. As Bryant exited the home, Bryant picked up a circular saw and carried it out of the home. We believe that Bryant's actions which violated the safety and security of a mother and her four-month-old child in their home were particularly egregious in light of the fact that Bryant refused to leave the home upon entering, finding the home occupied, and being instructed by the home's occupant to leave.

With respect to Bryant's character, Bryant concedes that she has a substantial criminal history, but claims that she is a nonviolent person who only commits criminal offenses because of her mental illness and her dependence on drugs and alcohol. The record, however, does not lend support to Bryant's claims. The record demonstrates that since

approximately 1989, Bryant has amassed thirty-three misdemeanor convictions and four felony convictions. Bryant's felony convictions include three theft convictions and one residential entry conviction. Her misdemeanor convictions include three disorderly conduct convictions; eight battery convictions, including two on police officers; five resisting law enforcement convictions; a criminal recklessness conviction; nine public intoxication convictions; a criminal mischief conviction; one false informing conviction; two criminal conversion convictions; one conviction for shoplifting; one criminal trespass conviction; and one conviction for possession of paraphernalia. In addition, Bryant has a history of violating probation and parole and was on probation at the time she committed the instant offenses. Moreover, here, the State had agreed to drop the instant charges if Bryant successfully completed the mental health programs ordered by the Madison County Mental Health Court. Bryant failed to do so and was discharged from Mental Health Court after being arrested on unrelated offenses and testing positive for drugs. In light of the egregious nature of the facts surrounding Bryant's instant offenses and Bryant's substantial criminal history, we are unable to say that Bryant's twenty-year sentence is inappropriate.

The judgment of the trial court is affirmed.

BAILEY, J., and VAIDIK, J., concur.