

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

This is a consolidated appeal of two cases. In the first case, Kamradt and two others were charged with Robbery, a Class A felony; Robbery a Class B felony; Criminal Confinement, a Class B felony; Criminal Confinement, a Class C felony; Battery, a Class C felony; and Strangulation, a Class D felony.

In the second case, Kamradt was charged with Robbery, a Class B felony; Burglary, a Class B felony; Criminal Confinement, a Class B felony; and Battery, a Class C felony.

In exchange for dismissal of all other counts, Kamradt agreed to plead guilty to one count of Robbery as a Class B felony in the first case and one count of Burglary as a Class B felony in the second case. He signed a stipulation of facts along with the plea agreement.

The court accepted his guilty pleas, found both aggravating and mitigating factors, and sentenced Kamradt to the advisory sentence of ten years for each of the Class B felonies but ordered the sentences to be served consecutively.

On appeal, Kamradt first attempts to attack the factual basis for his burglary conviction. This he may not do. In *Tumulty v. State*, 666 N.E.2d 394, 396 (Ind. 1996), our supreme court determined that once judgment is entered a defendant may not

challenge his guilty plea on direct appeal. *See also, Brightman v. State*, 758 N.E.2d 41, 44 (Ind. 2001). Accordingly, Kamradt's first contention presents nothing for review.

Kamradt also argues that the court erred in failing to recognize his alcohol and drug use as a significant mitigating factor when it elected to impose consecutive sentences.

Sentencing decisions rest within the sound discretion of the trial court, and the court abuses its discretion only 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. *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007). The *Anglemyer* court further explained that one such way a court might abuse its discretion would be if the court's sentencing statement omits reasons that are clearly supported by the record. *Id.* at 490-491.

Our decisions have stated that the trial court is not required to find mitigating factors, or to accept the circumstances proffered as mitigating by the defendant. Only when the trial court fails to find a significant mitigator that is clearly supported by the record is there a reasonable belief that it was overlooked. It is within the sole discretion of the trial court to determine which aggravating and mitigating circumstances to consider and to determine the weight to be accorded to each of these factors. The trial court is not obligated to explain why it has found that a proffered mitigating factor does not exist. *Bryant v. State*, 802 N.E.2d 486, 501 (Ind. Ct. App. 2004), *trans. denied*.

In Kamradt's case, the record discloses that he reported using marijuana at age ten and has abused alcohol since the age of twelve. The court asked Kamradt why he did not seek treatment, and he replied, "At the time I wasn't thinking about treatment. I was just thinking about fun in Miami."

Later, Kamradt was ordered to attend a substance abuse program as a condition of his probation for a possession of marijuana charge. He did not attend the treatment program and failed a drug test about six months later.

While our decisions have recognized that a history of substance abuse may be a mitigating factor, we have held that when a defendant is aware of a substance abuse problem but has not taken appropriate steps to treat it, a trial court does not abuse its discretion by rejecting the addiction as a mitigating circumstance. *Hape v. State*, 903 N.E.2d 977, 1002 (Ind. Ct. App. 2009), *trans. denied*; *Bryant*, 802 N.E.2d at 501.

On this state of the record, therefore, we cannot say that the record *clearly* supports substance abuse as a mitigating factor, or that the trial court abused its discretion by failing to find it so.

It follows that no error has been demonstrated.

Affirmed.

BAKER, C.J., and BROWN, J., concur.