IN THE COURT OF APPEALS OF IOWA

No. 0-553 / 00-578
Filed October 13, 2000

STATE OF IOWA,
Plaintiff-Appellee,

vs.

WILLIE JAMES POWELL, JR.,
Defendant-Appellant.

FILED
OCT 13 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Scott County, James E. Kelley, Judge.

Willie Powell appeals the sentences imposed following his guilty pleas to possession of a controlled substance and domestic assault resulting in injury. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and David Arthur Adams, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney General, Amy D. Hoel, Student Legal Intern, William E. Davis, County Attorney, and Gerald Feuerbach, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

HUITINK, P.J.

Willie Powell, Jr. appeals the sentences imposed on his convictions for possession of a controlled substance (crack cocaine), in violation of Iowa Code section 124.401 (1999), and domestic abuse assault resulting in injury, in violation of section 708.2A(2)(b). Powell contends the district court abused its discretion in sentencing him solely on his criminal record. We affirm on appeal.

Powell was charged with willful injury, domestic abuse with intent, possession of a controlled substance as an habitual offender, and domestic assault resulting in injury. Pursuant to a plea agreement, he pled guilty to possession of a controlled substance and domestic assault resulting in injury. The State agreed to dismiss the charges of willful injury and domestic abuse with intent. In addition, the State agreed the habitual offender enhancement to the possession charge would not apply.

A sentencing hearing was held on March 30, 2000. The State recommended consecutive sentences on the two charges. Defendant asked to have the sentences run concurrently. The district court sentenced Powell to a term of imprisonment not to exceed two years on the possession charge, and a period of one year on the domestic abuse charge, the sentences to be served consecutively. Powell appealed.

Because the challenged sentence does not fall outside the statutory limits, we review the court's sentencing decision for an abuse of discretion. *State v. Cooley,* 587 N.W.2d 752, 754 (Iowa 1998). An abuse of discretion is found only if the court's discretion has been exercised on grounds or for reasons clearly

untenable or to an extent clearly unreasonable. *State v. Laffey,* 600 N.W.2d 57, 62 (Iowa 1999).

Powell contends the district court abused its discretion in imposing the sentences in this case. He claims the court considered only his criminal record, and did not weigh all of the circumstances. He asks to have the case remanded for resentencing.

Under section 901.5, a court should exercise its discretion to determine a sentence that "will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others." The supreme court has stated:

> The trial court and we on review should weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant's age, character and propensities and chances [for] reform.

Cooley, 587 N.W.2d at 745-55 (quoting *State v. Hildebrand,* 280 N.W.2d 393, 396 (Iowa 1979)). Each sentencing decision must be made on an individual basis, and no single factor alone is determinative. *Id.* at 755.

At the sentencing hearing, the defendant's attorney informed the court defendant was employed and had reconciled with the victim in the case. Defendant stated he wanted to be with his children and support them. He also expressed interest in substance abuse treatment. The district court stated:

> The court is required to state on the record the reasons for imposing the sentence in this case. The Court has considered the Defendant's prior record of burglary in 1991, possession of a controlled substance in 1992, criminal mischief in the third degree in 1993, possession of a controlled substance in 1993, possession with intent to deliver a controlled substance in 1994, and finds that

> for the protection of the community and for deterrent effect upon the Defendant this sentence is warranted.

We find the district court did not abuse its discretion in this case. Information about the defendant's employment and family situation were before the court. Although the court listed defendant's criminal history as a reason for the sentences given, the court also stated the sentences were warranted for the protection of the community and in order to deter others from committing crimes. We conclude the sentences were not based on defendant's criminal history alone.

We affirm defendant's convictions and sentences.

AFFIRMED.