IN THE COURT OF APPEALS OF IOWA

No. 1999-267 (9-497) / 98-1510
Filed September 15, 1999

STATE OF IOWA,
Plaintiff-Appellee,

vs.

SPENCER PIERCE, SR.,
Defendant-Appellant.

Appeal from the Iowa District Court for Lee County, D.B. Hendrickson, Judge.

Defendant appeals his conviction for interference with official acts. **AFFIRMED AND REMANDED FOR RESENTENCING.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert Glaser, Assistant Attorney General, and Robert P. Ewald, Assistant Attorney General, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

MAHAN, J.

Spencer Pierce, Sr. appeals his conviction for interference with official acts. He contends the district court erred in failing to grant his motion for judgment of acquittal based on insufficiency of the evidence and claims the district court failed to state sufficient reasons on the record for his sentence. We affirm the conviction and remand to the district court for resentencing.

Pierce was an inmate at the Iowa State Penitentiary in Fort Madison on November 14, 1997. On that date, Pierce and fellow inmate Fred Ruble were being placed in an exercise pen by Correctional Officers Robert Picton and Richard Brookhart. Pierce and Ruble rushed the gate and Picton and Brookhart were assaulted. Correctional Officer Steven Teel was also assaulted when he attempted to come to the aid of the two guards. All of the officers suffered physical injuries in the altercation. Pierce admitted starting the altercation because Picton had previously denied him exercise privileges.

Pierce was charged by trial information with three counts of interference with official acts causing bodily injury and being an habitual offender. He was found guilty of the two counts involving Picton and Teel. However, the count involving Brookhart was reduced mid-trial by the district judge to interference with official acts after Brookhart testified he was struck by Ruble and not Pierce. The jury found Pierce guilty of this reduced charge. Pierce then stipulated he was an habitual offender.

Sentencing took place on August 7, 1998. On the two counts involving bodily injury, Pierce was sentenced to two indeterminate terms not to exceed fifteen years on the habitual offender enhancement. The terms were ordered to be served concurrently. On the count involving Brookhart, Pierce was sentenced to a term of one year consecutive to the sentence imposed on the other counts.

Pierce has appealed. This appeal involves only the count involving interference with official acts.

I. MOTION FOR JUDGMENT OF ACQUITTAL. We will uphold the trial court's denial of a motion for judgment of acquittal if there is substantial evidence in the record to support the defendant's conviction. *State v. McPhillips,* 580 N.W.2d 748, 752 (Iowa 1998). Our review of sufficiency-of-evidence challenges is for correction of errors at law. *State v. Thomas,* 561 N.W.2d 37, 39 (Iowa 1997). The jury's findings of guilt are binding on appeal if supported by substantial evidence. *State v. Hopkins,* 576 N.W.2d 374, 377 (Iowa 1998); *State v. Allen,* 348 N.W.2d 243, 247 (Iowa 1984). Substantial evidence is such evidence as could convince a rational fact finder that the defendant is guilty beyond a reasonable doubt. *Allen,* 348 N.W.2d at 247.

In deciding whether there is such substantial evidence, we view the record evidence in the light most favorable to the State. *State v. Torres,* 495 N.W.2d 678, 681 (Iowa 1993). Direct and circumstantial evidence are equally probative. Iowa R. App. P. 14(f)(16). A verdict can rest on circumstantial evidence alone. *State v.*

Torres, 506 N.W.2d 470, 472 (Iowa App. 1993). However, "[t]he evidence must at least raise a fair inference of guilt as to each essential element of the crime. Evidence which merely raises suspicion, speculation, or conjecture is insufficient." *State v. Casady*, 491 N.W.2d 782, 787 (Iowa 1992) (citations omitted).

Pierce argues it is reasonable to infer Ruble was acting alone when he attacked Brookhart and he should not be held legally responsible for the reduced offense of interference with official acts. We disagree. Pierce rushed and pushed open the gate that Brookhart was attempting to close. The jury found Pierce had knowingly resisted or obstructed Brookhart. Instruction No. 12 stated "resist means to oppose intentionally, interfere with or withstand." The term obstruct was defined as "to hinder intentionally, retard or delay." There was no requirement of actual bodily contact between Pierce and Brookhart. We therefore conclude there is substantial evidence in the record to support the conviction.

II. REASONS FOR SENTENCE IMPOSED. A sentence will be disturbed by a reviewing court only upon a showing that the trial court abused its discretion. *State v. Neary*, 470 N.W.2d 27, 29 (Iowa 1991). No abuse of discretion will be found unless the defendant shows that such discretion was "exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable." *Id.* The purpose of rule 22(3)(d) is to allow a reviewing court to determine whether there has been such an abuse of discretion. *State v. Matlock*, 304 N.W.2d 226, 228 (Iowa 1981); *State v. Mickens*, 462 N.W.2d 296, 299 (Iowa App. 1990). A sentencing court's statement of

its reasons satisfies the rule if it recites reasons sufficient to demonstrate the exercise of discretion and indicates those concerns which motivated the court to select the particular sentence which it imposed. *State v. Garrow,* 480 N.W.2d 256, 259 (Iowa 1992). Failure to adequately state reasons for the sentence imposed requires us to vacate the sentence and remand the case for resentencing. *See State v. Taggart,* 525 N.W.2d 877, 882 (Iowa App. 1994) (citations omitted).

The sentencing court is generally not required to give its reasons for rejecting particular sentencing options. *State v. Thomas,* 547 N.W.2d 223, 225 (Iowa 1996). Even a succinct and terse statement of reasons may be sufficient as long as the brevity displayed does not prevent us from reviewing the exercise of the trial court's sentencing discretion. *State v. Boltz,* 542 N.W.2d 9, 11 (Iowa App. 1995).

Pierce and the State agree the district court did not orally state at the sentencing hearing any reasons for the sentence or give a specific reason for the one-year term to run consecutively. The district court subsequently filed a written judgment entry which stated:

> After receiving and examining all pertinent information and considering all sentencing options available to it, for reasons fully stated on the record the Court has determined that the following sentence is authorized by law for the offense involved in this case and 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 State points out that although the district court was silent as to reasons at the sentencing hearing, the prosecutor made a long statement of appropriate reasons

for the sentence. The State then argues the district court's written reference to "reasons fully stated on the record" is "obviously a reference to the extensive reasons stated by the prosecutor at the sentencing hearing." In other words, the State argues the long list of reasons stated by the prosecutor at the sentencing hearing should be deemed "incorporated by reference" into the district court's judgment entry. While this argument is intriguing, we nevertheless decline to adopt it. The case shall be remanded to the district court for resentencing.

In summary, we affirm the conviction for interference with official acts and remand to the district court for resentencing.

AFFIRMED AND REMANDED FOR RESENTENCING.