

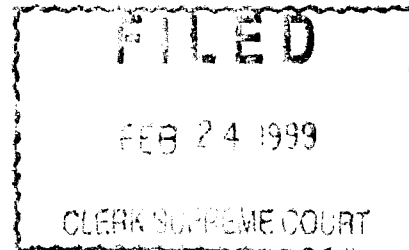
IN THE COURT OF APPEALS OF IOWA

No. 9-011 / 97-2141
Filed February 24, 1999

STATE OF IOWA,
Appellee,

vs.

MARK LEE JACKSON,
Appellant.



Appeal from the Iowa District Court for Muscatine County, J. Hobart
Darbyshire, Judge.

Mark Jackson appeals the judgment and sentence entered upon his conviction,
after a jury trial, for eleven counts of forgery. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Shellie L. Knipfer, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Boesen, Assistant Attorney
General, and Richard R. Phillips, County Attorney, for appellee.

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

VOGEL, J.

Mark Jackson appeals the judgment and sentence entered upon his conviction, after a jury trial, for eleven counts of forgery. As we find the court did not abuse its discretion in sentencing Jackson, we affirm.

Background facts. In April of 1997, a building occupied by Wadell's Metal Recycling in Blue Grass, Iowa, was burglarized and a number of blank checks from a closed account were taken. In May of 1997, several of the stolen checks were cashed by Jackson at two Muscatine businesses. Jackson was charged in June of 1997 with thirteen counts of forgery, in violation of Iowa Code sections 715A.2(1)(b)(c) and 715A.2(2)(a)(3) (1997).¹

¹ Iowa Code section 715A.1(b) & (c) provide:

1. A person is guilty of forgery if, with intent to defraud or injure anyone, or with knowledge that the person is facilitating a fraud or injury to be perpetrated by anyone, the person does any of the following: . . .

b. Makes, completes, executes, authenticates, issues, or transfers a writing so that it purports to be the act of another who did not authorize that act, or so that it purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or so that it purports to be a copy of an original when no such original existed.

c. Utters a writing which the person knows to be forged in a manner specified in paragraph "a" or "b".

Iowa Code section 715A.2(2)(a)(3) provides:

Forgery is a class "D" felony if the writing is or purports to be any of the following: . . .

(3) A check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

A jury trial began in October of 1997. The State dismissed two counts of forgery; the jury found Jackson guilty of the remaining eleven counts. Jackson was sentenced to five years for each conviction, to be served consecutively. Jackson appeals.

Scope of review. We review the district court's sentencing decision for an abuse of discretion. *State v. Mai*, 572 N.W.2d 168, 170 (Iowa App. 1997). No abuse of discretion will be found unless the defendant shows that such discretion was exercised for reasons clearly untenable or to an extent clearly unreasonable. *Id.*

Sentencing. While conceding that the sentence he received was authorized by Iowa Code sections 715A.2 and 901.8,² Jackson argues that his fifty-five-year sentence is unreasonable in light of the amount of money he stole (\$3,479) and his nonviolent criminal history.

When a sentence is within the statutory limits, we interfere only if the court's reasons clearly show an abuse of discretion. *See State v. Glenn*, 431 N.W.2d 193, 195 (Iowa App. 1988); *State v. Bragg*, 388 N.W.2d 187, 191 (Iowa App. 1986). In exercising this discretion, the court may consider a variety of factors, including the nature of the offense and attending circumstances, as well as the defendant's age, character, propensities and chances of reform. *State v. Boltz*, 542 N.W.2d 9, 10 (Iowa

² Iowa Code section 901.8 provides, in relevant part:

If a person is sentenced for two or more separate offenses, the sentencing judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence.

App. 1995). The failure to acknowledge a particular sentencing circumstance does not necessarily mean it was not considered. *Id.* at 11.

Our task on appeal is not to substitute our sentencing preference for the district court. Rather, our limited task is to review the district court's sentencing choice to determine whether the court acted within its discretion and provided support in the record for the sentence imposed. *See Id.* In this case, the prosecutor recommended eleven consecutive five-year sentences, one sentence for each of the eleven crimes committed. In deciding to accept that recommendation, the court considered Jackson's lengthy and extensive criminal history outlined in the presentence investigation report, including nine felonies committed between 1989 and 1996. The court also noted that Jackson committed the forgery offenses at issue while awaiting sentencing on a prior burglary conviction. The court concluded that society needed to be protected from Jackson. We find that the court's reasons for the sentence imposed were not clearly untenable or unreasonable, and therefore find no abuse of discretion. Accordingly, we affirm Jackson's sentence.

AFFIRMED.