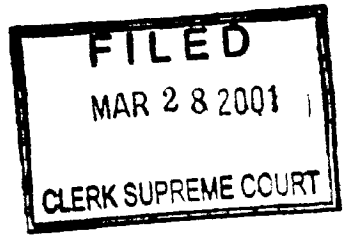
IN THE COURT OF APPEALS OF IOWA

No. 1-075 / 00-0121
Filed March 28, 2001

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MICHAEL PAUL COLLUM,
Defendant-Appellant.



Appeal from the Iowa District Court for Poweshiek County, Dan F. Morrison, Judge.

Defendant appeals from the sentence entered following his conviction of two counts of third-degree sexual abuse. *See* Iowa Code §§ 709.1(3), 709.4(2)(c)(4) (1997). **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Martha J. Lucey, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Denise A. Timmins, Assistant Attorney General, Michael W. Mahaffey, County Attorney, and Kelly Bennett, Assistant County Attorney, for appellee.

Considered by Streit, P.J., and Hecht and Vaitheswaran, JJ.

HECHT, J.

Michael Collum appeals from the sentence entered following his conviction of two counts of third-degree sexual abuse. *See* Iowa Code §§ 709.1(3), 709.4(2)(c)(4) (1997). He contends the district court abused its discretion in imposing consecutive sentences. We affirm.

I. Factual Background and Proceedings. The State charged Collum with two counts of sexual abuse in the third degree on March 1, 1999. The charges stemmed from Collum's sexual relationship with a minor female, E.F., during the late winter and early spring of 1998. At this time, E.F. was fifteen years old and Collum was thirty-six years old. E.F. became pregnant in May of 1998 and later had an abortion to terminate the pregnancy. A jury returned a verdict of guilty on both charges on December 16, 1999. The district court sentenced Collum to a term of incarceration not to exceed ten years on each count, to be served consecutively. Collum appeals.

II. Standard of Review. We review Collum's challenge to the district court's sentence for abuse of discretion. *State v. Johnson,* 513 N.W.2d 717, 719 (Iowa 1994).

III. Sentencing. Collum argues the district court abused its discretion by failing to consider all relevant factors when sentencing him to consecutive sentences. A sentence will not be upset on appellate review unless the defendant demonstrates an abuse of district court discretion or a defect in the sentencing procedure. *State v. Wright,* 340 N.W.2d 590, 592 (Iowa 1983). Iowa Rule of Criminal Procedure 22(3)(d) requires the district court to state its reasons for selecting a particular sentence on the record. *State v. Oliver,* 588 N.W.2d

412, 414 (Iowa 1998). Although the reasons do not need to be detailed, at least a cursory explanation must be provided to allow appellate review of the district court's discretionary action. *Id.* The district court must also give reasons for its decision to impose consecutive sentences. *State v. Jacobs,* 607 N.W.2d 679, 690 (Iowa 2000).

In applying its discretion, the district court should weigh and consider all pertinent matters in determining a proper sentence, including the nature of the offense, the attending circumstances, and the defendant's age, character, propensities, and chances of his reform. *State v. Laffey,* 600 N.W.2d 57, 62 (Iowa 1999). Iowa Code section 901.5 also requires the court to determine which sentence 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. *Id.* We look at the entire record and look to see if the reasons articulated by the district court are sufficient to enable us to determine if an abuse of discretion occurred. *State v. Boltz,* 542 N.W.2d 9, 11 (Iowa Ct. App. 1995).

The record in this case discloses that the district court provided sufficient reasons for the sentences imposed. During the sentencing colloquy, the court made the following statement regarding consecutive sentences:

> It is further ordered that the sentences shall be served consecutively and not concurrently.
>
> Mr. Collum, in sentencing you to consecutive rather than concurrent sentences, I have taken into account all the information in the PSI, and it is disturbing to see that in April of 1994, you received a five year sentence for lascivious acts with a child, and now in March of 2000, January of 2000, you're being sentenced for sexual abuse in the third degree; and both of those come after you pled guilty to lascivious acts and were placed on probation back in 1982. There obviously is a very dangerous pattern here. If anyone would have known what you were doing was illegal in this particular

> case, it should have been you, with your background in this area; the fact that you have pled guilty to similar crimes; that you spent time in prison for five years for similar crimes. Taking all of those things into account, the court finds that it's in the best interests of the public that these sentences be consecutive rather than concurrent. At least at the time you're away from the community, you're not going to be in position to violate any laws.
>
> The court has considered the evidence in this case, which indicates that this is an ongoing continuous relationship at a time when you knew or certainly should have known, based on your past experience, that what you were doing was illegal; that you took advantage of the situation. For those reasons I have sentenced you accordingly.

Collum argues this statement improperly focuses on only one factor, his criminal history. We disagree. This statement evidences the district court's consideration of several relevant factors when imposing consecutive sentences. The court considered Collum's criminal history of committing crimes similar to the present charges, the nature of the present crime, the fact that he has shown no efforts toward rehabilitation, and the potential threat to society. Additionally, the district court indicated it considered the entire presentence investigation report.

Collum specifically argues that the district court should have considered, or given weight to, findings from an evaluation called the Sexual Adjustment Inventory (SAI). The results of the SAI were listed in detail in a report attached to the PSI and filed with it before sentencing. Although the district court did not specifically mention whether it considered the results of the SAI, it did consider "all of the information in the PSI," which included the detailed test results. We conclude the district court did not abuse its discretion in sentencing Collum to consecutive sentences. We therefore affirm Collum's sentences for the crimes charged.

AFFIRMED.