



IN THE IOWA COURT OF APPEALS

STATE OF IOWA,

)

Plaintiff-Appellee,

)

vs.

)

DENELIUS NESBY,

)

Defendant-Appellant.)

FILED MAY 26, 1981
CLERK SUPREME COURT1-87
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Appeal from Black Hawk District Court. Carroll E. Engelkes, Judge.

Defendant appeals from sentencing following his plea of guilty to theft in the third degree. AFFIRMED.

W. H. Gilliam, Waterloo, Ia., for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and John P. Messina, Assistant Attorney General, for plaintiff-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

Defendant, Denelius Nesby, appeals from sentencing following his plea of guilty to theft in the third degree in violation of section 714.2, The Code 1979. We affirm.

Our review is on error assigned. Iowa R. App. P. 4.

Defendant asserts the sentencing court failed to state on the record the reasons for the sentence it imposed pursuant to Iowa R. Crim. P. 22(3)(d).

It is clear from the record the court was possessed of the pre-sentence investigation report and recommendation. The court gave opportunity for and heard defendant's explanation of information in that report. Defendant sought sentencing which would permit him to remain in the community. The following dialogue ensued:

THE COURT: Under the circumstances, in light of the totality of the pre-sentence report and the recommendation of that report—

MR. GILLIAM: Excuse me if I can interrupted [sic] Your Honor. As I understand this report that last charge was dismissed. He did plead not guilty and it was dismissed, apparently based on the complaint.

THE COURT: All right, I would not consider that anyway as long as it—except that it indicates that further involvement at least to the extent of having been arrested on two or three occasions.

I believe in the light of your total record, even though you're a relatively young man and this is one of your first if not your first criminal offense to which there's been a conviction since you turned 18, I think that it's time that you appreciate the seriousness of the kind of conduct you have been going through. And that we really are not in a position to effectively deal with your rehabilitation in the community setting.

It's the order and sentence of the Court, first of all you're adjudged guilty of the crime of Theft in the Third Degree, and you are sentenced to be confined for a term of two years. You are also to pay the costs in this case.

We find the court statements of record sufficiently articulate the rationale of the sentence imposed pursuant to Iowa R. Crim. P. 22(3)(d).

Finding no error, we affirm the judgment below.

AFFIRMED.