



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,)

Filed November 26, 1980

vs.)

RONNY DALE HINES,)

Defendant-Appellant.)

0-301
64490

Appeal from Wapello District Court - Richard J. Vogel, Judge.

Defendant appeals sentence imposed for conviction of fourth degree theft in violation of section 714.2(4), The Code 1979. - AFFIRMED.

J. Terrence Denefe, of Kiple, Kiple & Denefe, Ottumwa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, Lona Hansen, Assistant Attorney General, and Thomas F. Kintigh, Wapello County Attorney, for plaintiff-appellee.

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

PER CURIAM

Defendant appeals the sentence imposed for conviction of fourth degree theft in violation of section 714.2(4), The Code 1979. The trial court sentenced defendant to a one year term of incarceration in the Wappello County jail and did not suspend the sentence or grant defendant probation. We affirm.

I. Defendant contends that the trial court failed to adequately state the reasons for imposing the one year jail sentence on defendant in violation of Iowa R. Crim P. 22(3)(d). The policy underlying Rule 22(3)(d) is that articulation of the rationale undergirding a sentence assists both the trial court and the appellate court on review. See State v. Horton, 231 N.W.2d 36, 39 (Iowa 1975). Upon pronouncing sentence the trial court stated:

Mr. Hines, the Code requires me to tell you the reasons for selecting the sentence just imposed. In consideration of your age, your prior criminal record, the family circumstances and the nature of this offense, this Court deems it in the best interests of the community, and probably in your best interests, for you to serve a term of incarceration.

The trial court included among its specific references defendant's criminal record, which was extensive, as is discussed in division II below. We therefore conclude that the trial court gave an adequate statement of reasons for its sentencing decision.

II. Defendant contends that the trial court abused its discretion in sentencing defendant to the maximum term of imprisonment and in neither suspending the sentence nor granting probation. A reviewing court will not disturb the sentence rendered by a trial court where the sentence is within the statutory maximum and no abuse of discretion is shown. State v. Moreland, 252 N.W.2d 465, 466 (Iowa 1977); State v. Kendall, 167 N.W.2d 909, 911 (Iowa 1969) (quoting State v. Cooper, 161 N.W.2d 728, 732 (Iowa 1968)). Defendant's sentence was within statutory limits. See §§ 714.2(4), 903.1(2), 903.2, The Code 1979. For a trial court to abuse its sentencing discretion, "the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias." State v. Noonan, 246 N.W.2d 236, 237 (Iowa 1976) (quoting State v. Warner, 229 N.W.2d 776, 783 (Iowa 1975) (quoting Wendel v. Swanberg, 384 Mich. 468, 475-76, 185 N.W.2d 348, 351 (1971))). In sentencing defendant, the trial court noted his past encounters with the law, which

included charges of assaulting a police officer, burglary and stealing, larceny, going armed with intent to harm, contributing to delinquency of a minor, and escape from custody. Defendant has served two terms in the Missouri State Penitentiary. Defendant has not been deterred from criminal activity. Under these circumstances we conclude that the trial court's sentencing decision was not unreasonable nor an abuse of discretion.

AFFIRMED.