IN THE COURT OF APPEALS OF IOWA

FILED
SUPREME COURT

No. 5-731 / 95-0591

STATE OF IOWA,

Appellant,

vs.

RANDY EDWIN HIGGINBOTHAM,

Appellant.

Appeal from the Iowa District Court for Pottawattamie County, Leo F. Connolly, Judge.

Randy Higginbotham appeals the sentence imposed upon his conviction of serious assault and providing alcohol to a minor. **AFFIRMED.**

Michael J. Winter, Council Bluffs, for appellant.

Thomas J. Miller, Attorney General, Julie H. Brown, Assistant Attorney General, Richard Crowl, County Attorney, and Timothy O'Grady, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Habhab and Huitink, JJ.

HUITINK, J.

Randy Higginbotham appeals the sentence imposed upon his convictions for serious assault and providing alcohol to a minor. We affirm.

Randy Higginbotham was charged with third-degree sexual abuse, lascivious conduct with a minor, and providing alcohol to a minor following allegations he had given beer to and sexually assaulted his minor stepdaughter. Higginbotham entered not guilty pleas to all three counts. Higginbotham admitted he had given beer to his stepdaughter and had pulled down her pants. He, however, also claimed that he did so in an effort to discipline his stepdaughter for underage drinking and to educate her about the potential dangers involved in consuming alcohol in the presence of young men.

Pursuant to a plea agreement, the State amended the sexual abuse charge to serious assault in violation of Iowa Code section 708.1(1) and dismissed the lascivious conduct charge. Higginbotham pled guilty to the serious assault and providing alcohol to a minor charges, though he maintained he did not intend anything sexual by his actions. The district court sentenced Higginbotham to consecutive one-year prison terms for each charge. In doing so, the court stated, "[the] reasons for my sentence is your need for rehabilitation and your potentiality for rehabilitation and the seriousness of the incident." Higginbotham appeals.

Our review is for correction of errors of law. Iowa R. App. P. 4. A sentence will not be disturbed on review absent an abuse of discretion or other defect requiring resentencing. *State v. Pappas*, 337 N.W.2d 490, 494 (Iowa 1983). Failure to state reasons for the sentencing option selected is a defect requiring resentencing. *See State v. Snyder*, 336 N.W.2d 728, 729 (Iowa 1983) (citing *State v. Luedke*, 279 N.W.2d 7, 8-9 (Iowa 1979)). No abuse of discretion will be found unless the defendant shows such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *Id.* A defendant has the burden of showing an abuse of discretion. *State v. LeGrand*, 501 N.W.2d 59, 64 (Iowa App. 1993).

It is within the discretion of the district court to determine whether to impose concurrent or consecutive sentences for convictions on separate counts. *State v. Criswell*, 242 N.W.2d 259, 260 (Iowa 1976). A trial court, however, must state within the record its reasons for imposing a particular sentence or for selecting a particular sentencing option. Iowa R. Crim. P. 22(3)(d). This mandate includes a duty to explain the rationale behind imposition of a consecutive sentence. *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa App. 1994). "The reasons, however, are not required to be specifically tied to the imposition of consecutive sentences, but may be found from the particular reason expressed for the overall sentencing plan." *Id.* Although the court must state reasons sufficient to demonstrate the exercise of discretion and to indicate

what motivated the sentence, the statement need not be lengthy or detailed. *State v. Victor*, 310 N.W.2d 201, 205 (Iowa 1981).

Higginbotham claims the district court failed give adequate reasons for imposing consecutive sentences. He also contends the court erroneously relied solely on the nature and seriousness of the offense in exercising its sentencing discretion. We disagree.

Although the district court's statement explaining its sentencing rationale was short, it made clear that the judge imposed consecutive sentences based on what he believed to be the necessity of and potential for rehabilitation in addition to the seriousness of the offense. All of these reasons are legitimate sentencing considerations and clearly contributed to the district court's decision. Moreover, it is apparent from the transcript of the sentencing proceedings that the district court also gave weight to Higginbotham's criminal history and considered the presentence investigation report prior to the hearing. Based on our review of the record, we conclude the district court provided an adequate explanation for its decision to impose consecutive sentences. We affirm.

AFFIRMED.