FILED
OCT 20 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	193
vs.	)	
JOHN CHARLES JONES,	)	8-525 88-515
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Johnson County (No. 19716), L. Vern Robinson, Judge.

Defendant appeals from his sentences in district court following his pleas of guilty to burglary in the second degree, carrying a concealed weapon, and absence from custody. **AFFIRMED.**

Raymond Rogers, Acting Chief Appellate Defender, and Barbara M. Anderson, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Sarah J. Coats, Assistant Attorney General; and David Tiffany, Assistant County Attorney, for plaintiff-appellee.

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

PER CURIAM 101

Defendant appeals from his sentence in district court following his pleas of guilty to burglary in the second degree, carrying a concealed weapon, and absence from custody. Defendant's sentences were made consecutive to an earlier sentence. He claims that the district court abused its discretion in ordering his concurrent sentences to run consecutive to his existing concurrent sentences.

Defendant John Charles Jones was seventeen years old in 1987. The juvenile court waived jurisdiction and he was prosecuted as an adult. He was charged with burglary in the first degree, carrying a concealed weapon, and absence from custody. Jones entered pleas of guilty to burglary in the second degree, carrying a concealed weapon, and absence from custody. He did not file a motion in arrest of judgment. He was sentenced to an indeterminate prison term of ten years on the burglary charge, an indeterminate prison term of two years on the concealed weapon charge, and thirty days in the county jail on the absence charge. All these sentences were to run concurrently.

At the time of the present offense Jones was on probation for other charges. Earlier in 1987, he had been sentenced as an adult on charges of second-degree theft and second-degree burglary to concurrent five and ten-year prison terms. These sentences were suspended and Jones was placed on probation for five years. He was placed at HOPE

House in Iowa City when he ran away with a codefendant and committed the present offense. Because of this offense, his probation was revoked and he was again sentenced to prison on the earlier charges. Although defendant's present sentences are concurrent, they were made consecutive to his sentences on the earlier charges.

Defendant appeals the sentences he received in the district court. He claims that the district court abused its discretion in ordering the present sentences to run consecutively to the earlier sentences. He feels that all of his sentences should run concurrent with each other so that he could remain at a medium security facility and participate in substance abuse and personal responsibility programs. He states that the court did not adequately consider his chances for reform. He thinks that he will not receive adequate treatment in a maximum security prison.

Our review is for correction of errors at law. Iowa R. App. P. 4. A sentence within the statutory maximum will not be overturned absent a showing that the sentencing court abused its discretion. State v. Williams, 315 N.W.2d 45, 59 (Iowa 1982). A sentencing court has abused its sentencing discretion when the result is "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." [citations omitted] State v. Noonan, 246 N.W.2d 236, 237 (Iowa 1976).

The trial court has not abused its discretion. There is no affirmative showing of abuse to overcome the strong presumption in favor of the trial court. State v. Pappas, 337 N.W.2d 490, 494 (Iowa 1983). The court acted within its discretion when it sentenced the defendant.

The basic procedural guidelines for sentencing are contained in Iowa Code sections 901.2, 901.5, 907.3, and 907.5 (1987). In addition, the court is to:

> weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant's age, character and propensities and chances of reform.

Williams, 315 N.W.2d at 59.

The trial court properly exercised its discretion. The reasons given were the defendant's past record of convictions, the need to protect the community from other offenses by him, and the recommendations made by the State and the presentence investigator. It is clear that the court exercised its discretion as required and did not rely on a single factor such as the nature of the offense. State v. Dvorsky, 322 N.W.2d 62, 67 (Iowa 1982) (error where sentence grounded only on loss of life which is a necessary incident to manslaughter).

In State v. McKeever, 276 N.W.2d 385, 387 (Iowa 1979), the statement of the trial court left "little doubt that he

considered a deferred or suspended sentence to be inappropriate in a case where a life has been taken." Even though the court stated only this reason, no abuse of discretion was found because a review of the record revealed that the court took into account other considerations before determining the sentence. Id. at 388. The other sources of information the court had before it were the presentence report, the lack of positive response by the defendant as a juvenile offender, rehabilitative effects of incarceration as opposed to other alternatives, and protection of the community, as well as the nature of the offense. Id. As long as the punishment fits the particular person and circumstances under consideration and the decision is made on an individual basis with no factor solely determinative, no abuse of discretion will be found. Id. at 387.

Our review of the record shows that the court considered the defendant and his particular circumstances. The State, in making their recommendations to court, discussed the nature of the offense, the fact that defendant was on the run at the time of these offenses, that a weapon was involved, and defendant's psychiatric evaluation. The attorney for the defendant argued that in spite of defendant's prior conviction, his young age, his chance for participation in programs that stress maturity and accountability, and substance abuse weigh in favor of

granting concurrent sentences. Defendant also voiced his opinion on sentencing.

It is clear that the court had before it all pertinent matters to be considered in determining the proper sentence. The sentence fits the defendant and the circumstances. We find no abuse of discretion. Therefore, we affirm the sentences imposed on defendant by the district court.

AFFIRMED.