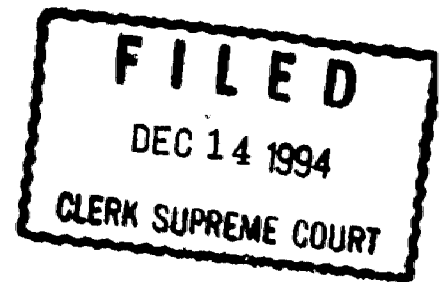


IN THE COURT OF APPEALS OF IOWA

No. 4-396 / 94-149



STATE OF IOWA,

Appellee,

vs.

WALLACE ANTHONY BLAIR,

Appellant.

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Appeal from the Iowa District Court for Boone County,  
Gary L. McMinimee, Judge.

Defendant appeals from sentences imposed upon his pleas  
of guilty to third-degree theft and criminal trespass.  
**AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and John F.  
Fatino, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Ann E. Brenden,  
Assistant Attorney General, Steven J. Oeth, County  
Attorney, and Timothy Markel, Assistant County Attorney,  
for appellee.

Considered by Donielson, C.J., and Hayden and Cady, JJ.

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**DONIELSON, C.J.**

In August 1993, Wallace Blair was charged with burglary in the third degree, in violation of Iowa Code section 713.6A, and with being a habitual offender, in violation of sections 902.8 and 902.9(2).

The minutes of testimony indicate Blair is an antique dealer. A juvenile accomplice stated he saw Blair go in a basement window of a residence in Boone, Iowa. The residence is owned by Belva Gates, who lives in a nursing home. Blair placed an oak table and six chairs in a van. The juvenile accomplice later saw the table and chairs in a barn behind Blair's house. Judy Sterns stated she purchased an oak table and chair set from Blair at a yard sale in Des Moines. The table and chair set was seized from Sterns by the Boone County Sheriff's Office and identified as belonging to Gates.

The parties entered into a plea agreement in which Blair agreed to plead guilty to theft in the third degree, in violation of sections 714.1 and 714.2(3), and criminal trespass, in violation of section 716.7 and 716.8(2). The plea agreement contained a sentencing provision that defendant would be sentenced to a term of imprisonment not to exceed two years for the theft charge and to a term of imprisonment not to exceed one year for the criminal trespass charge, and that these sentences would run consecutively.

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Defendant appeared before the court on January 20, 1994, and entered his guilty plea. He also filed a waiver in which he agreed to be sentenced immediately. At the hearing, the court stated that its acceptance of the guilty plea was subject to its consent to the sentencing concession in the plea agreement. The court also inquired from the defendant whether the proposed sentencing order reflected the plea agreement between the parties, and defendant responded in the affirmative. The court sentenced defendant in accordance with the terms of the plea agreement.

Defendant appealed. He claims he was not properly sentenced pursuant to Iowa Rule of Criminal Procedure 22(3)(d) which provides, "The court shall state on the record its reasons for selecting the particular sentence." Defendant contends the district court failed to set forth any reasons for the particular sentence entered in this case.

Generally, in a plea agreement the defendant agrees to plead guilty to one or more charges. State v. Hinnars, 471 N.W.2d 841, 843 (Iowa 1991). In return, the State agrees to reduce the charges against the defendant, to dismiss or refrain from bringing other charges, or to present the court with a favorable sentence recommendation. Id. The plea agreement binds the defendant as well as the State. Id.

The supreme court has stated that where a court approves a plea agreement and incorporates it into the sentence, the sentence is not the product of the exercise of the court's discretion, but is the product of giving effect to the parties' agreement. State v. Snyder, 336 N.W.2d 728, 729 (Iowa 1983). Thus, where a sentence is the result of a plea agreement, rule 22(3)(d) is inapposite. Id. Under these circumstances, the purpose of a statement of reasons for imposition of the sentence would serve no practical purpose, and a court's failure to furnish reasons for the sentence may be considered harmless. Id.<sup>1</sup>

Here, the sentence was the result of the parties' plea agreement. We conclude the district court's failure to provide reasons for the sentence imposed was harmless because there was no practical purpose for giving a statement of reasons.

Defendant also claims he received ineffective assistance of counsel. In a pro se appeal, he claimed his court-appointed attorney, Frank Rivera, suppressed evidence and Rivera colluded with the county attorney to suppress evidence. He also claimed Rivera failed to hand over depositions to his subsequent attorneys, Maggi Moss and Matthew Sheeley. He claimed Moss and Sheeley insisted he enter his guilty plea on the day his mother died.

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1. We note the better practice is for the court to state reasons for the sentence in every case, even those in which it has no discretion. See Snyder, 336 N.W.2d at 729.

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Defendant asks us to preserve these claims for postconviction review.

The State contends defendant's claims of ineffective assistance should not be preserved because he has not sufficiently disclosed the grounds or described the situations that support his claim of ineffective assistance.

A reviewing court should be provided at a minimum with enough information to make an initial assessment of defendant's contentions. State v. White, 337 N.W.2d 517, 519 (Iowa 1983). Whether a specific issue can be disposed of on appeal or must be reserved for resolution in postconviction proceedings is a determination that should be made by the appellate court, not counsel. Id.

We conclude defendant has sufficiently disclosed the grounds to support his claim of ineffective assistance. We determine his claims should be reserved for postconviction review.

We affirm the sentence imposed by the district court in this case. Costs of this appeal are assessed to Wallace Blair.

**AFFIRMED.**