

IN THE COURT OF APPEALS OF IOWA

No. 8-061 / 95-0087

000445

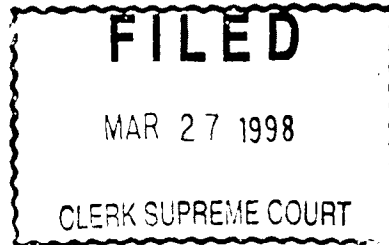
STATE OF IOWA,

Plaintiff-Appellee,

vs.

LAMONT RICHARD,

Defendant-Appellant.



Appeal from the Iowa District Court for Scott County, David J. Sohr, Judge.

On appeal from his conviction for first-degree arson, defendant argues the district court abused its discretion in ordering that his sentence run consecutive to his sentences in two other cases. **AFFIRMED.**

Philip T. Ramirez of Newport, Bell, Leon & Ramirez, Davenport, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor, Assistant Attorney General, William E. Davis, County Attorney, and Joseph A. Grubisich, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Vogel and Mahan, JJ.

MAHAN, J.

Lamont Richard appeals the sentence imposed following a plea of guilty to the charge of first-degree arson. Richard alleges the trial court abused its discretion when it sentenced Richard to consecutive sentences. We affirm.

Richard admitted taking part in throwing "Molotov cocktails" at a house. Richard's plea agreement called for him to plead guilty to arson, criminal gang participation, and conspiracy to commit a felony. The sentence for arson was to run consecutively to sentences Richard was already serving. In exchange, the State agreed to dismiss the criminal gang participation and conspiracy to commit a felony charges at sentencing.

At the sentencing hearing, counsel admitted the plea agreement called for consecutive sentencing.

THE COURT: Mr. Clements, any statement regarding consecutive or concurrent sentencing?

MR. CLEMENTS: We just leave it up to the Court, Your Honor. We do recognize that we have entered into the plea agreement that does call for consecutive sentence and we have -- I have discussed this with my client. He knows what that means and he did choose to enter into the plea agreement.

The court then gave its reasons for imposing sentence.

THE COURT: The Court has reviewed the presentence investigation in this case and would note that -- that the Defendant is aged 21. He is unemployed. He has 10 years of education. He is single with no dependants. The Court notes the prior record of the Defendant, that he is currently serving time in Cause Number 174294, I believe it is for Willful Injury, Terrorism, Going Armed With Intent and Criminal Gang Participation.

The Court further notes that one of the crimes Defendant is ~~being sentenced~~ for today is also Criminal Gang Participation. The Court notes that prior history, going back to 1991, involves an Assault conviction. The Defendant received a deferred judgment and probation in 1991 on an Attempted Burglary. In 1992 Defendant was sentenced for Making False Reports and on three separate convictions of No Driver's License.

Also, in 1994 the Defendant was sentenced in a case involving Disorderly Conduct and Criminal Mischief in the Fourth Degree. I don't know if he was sentenced on both of those, but both were charged.

Based on the nature of the offenses involved in these two cases today, being Arson in the First Degree, involving a fire bombing of a house, a residence with people present, based on the fact that it is his second conviction here of Criminal Gang Participation, the additional charge of Theft in the First Degree involved a car-jacking, involving removing a woman forcibly from her car and throwing her to the street, involve all crimes -- very serious crimes of violence, and the Defendant apparently has shown no remorse, and his prior record is such that it involves extreme violence as well. It is clear the Defendant needs considerable deterrence from further conduct and he needs a great deal of time for any hope of rehabilitation.

Consequently, the Court will follow the plea agreement and make all of the sentences run consecutively.

I. STANDARD OF REVIEW. We review the sentencing court's imposition of consecutive sentences for abuse of discretion. *State v. Harris*, 528 N.W.2d 133, 135 (Iowa App. 1994). We will not find an abuse of discretion unless such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *State v. Selestian*, 515 N.W.2d 356, 358 (Iowa App. 1994). Defendant has the burden of showing an abuse of discretion. *Harris*, 528 N.W.2d at 135.

II. IMPOSITION OF CONSECUTIVE SENTENCES. The trial court generally has discretion to impose concurrent or consecutive sentences for convictions on separate counts. *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa App. 1994); *see*

also Iowa Code § 901.8 (1995). Under Iowa Code section 901.5, when considering authorized sentencing options, the trial court should consider:

[W]hich of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others.

Iowa Code § 901.5; *Harris*, 528 N.W.2d at 135. In addition, when determining a proper sentence, a court should consider the nature of the offense, the attending circumstances, and the defendant's age, character, and propensities or chances for reform. *Id.*

The trial court is required to state on the record its reasons for selecting the particular sentence in a criminal case, including the reasons for imposing consecutive sentences. Iowa R. Crim. P. 22(3)(d); *see also Delaney*, 526 N.W.2d at 178. The reasons, however, are not required to be specifically tied to the imposition of consecutive sentences, but may be found from the particular reasons expressed for the overall sentencing plan. *Id.* Thus, we look to all parts of the record to find the supporting reasons. *Id.*

We find the trial court clearly considered all of the necessary factors when it imposed the consecutive sentence. Further, Richard was fully aware of the sentencing recommendation when he signed the plea agreement.

For these reasons we affirm the sentence as entered.

AFFIRMED.