IN THE COURT OF APPEALS OF IOWA

No. 0-716 / 99-1897
Filed February 7, 2001

STATE OF IOWA,
Appellee,

vs.

ELVER ISIC,
Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Robert J. Blink, Judge.

On appeal from the judgment and sentence entered upon his conviction for third-degree sexual abuse, defendant contends the court erred in discounting his guilty plea as a self-serving act and not considering it an acceptance of responsibility. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and John P. Messina, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, John P. Sarcone, County Attorney, and Frank Severino, Assistant County Attorney, for appellee.

Considered by Streit, P.J., and Vogel and Miller, JJ.

VOGEL, J.

On appeal from the judgment and sentence entered upon his conviction for third-degree sexual abuse, Elvir Isic asserts we should vacate his sentence and remand for resentencing. Isic contends the trial court erred in discounting his guilty plea as a self-serving act and not considering it an acceptance of responsibility. We affirm.

Background facts. On July 7, 1999, Isic was charged with two counts of third-degree sexual abuse, advancing forcible and statutory rape alternatives on both counts. A plea bargain was struck, in which Isic pled guilty to one count of statutory rape. He was sentenced to a ten-year indeterminate term of incarceration. He now appeals the sentencing.

Scope of review. Our review is for the correction of errors at law. Iowa R. App. P. 4. A sentence will not be upset on appellate review unless the defendant demonstrates an abuse of the trial court's discretion or a defect in the sentencing procedure such as the trial court's consideration of impermissible factors. *State v. Jorgensen,* 588 N.W.2d 686, 687 (Iowa 1998).

Sentence. Isic contends the trial court erred in ordering a prison term over probation on the basis of the self-serving nature of the defendant's guilty plea. The State contends the trial court considered permissible factors in rendering a prison term.

The underlying crime revolved around Isic's sexual exploits with a child under the age of sixteen. The victim alleged the contact was forced while Isic

claimed it was consensual and, additionally, that she lied to him about her age. In ordering a prison sentence, the trial court stated:

> [t]he thrust of his letter has to do with your client's blaming his problem on the victim and asserting that this all occurred because she was untruthful to him . . .
>
> * * *
>
> [I] think there's a reasonable basis for prison in light of his - - his attempt, yet, to shift the blame for this problem to the victim or to his present situation. . . .
>
> * * *
>
> Probation in this case is denied because of the seriousness of this offense and because of what the Court perceives to be the Defendant's willingness to concede wrongdoing only when it gained him advantage, not because of a sincere sense of apology or wrongdoing. . . .

Isic agrees a sentencing court may consider the level of responsibility a defendant has demonstrated for the crime committed. However, he alleges it was error by the court to impugn his motives in entering a guilty plea as a purely self-serving act. We note Isic has failed to provide legal authority for his assertions. Failure to state, argue or cite authority in support of an argument may be deemed waiver of that issue. Iowa R. App. P. 14(a)(3).

We think Isic is reading too much into the trial court's sentencing colloquy. A trial court may properly consider such factors as lack of remorse, lack of concern for the victim, and failure to take responsibility for the crime when sentencing a defendant. *See State v. Knutson,* 234 N.W.2d 105, 108 (Iowa 1975); *see also State v. Dicks,* 473 N.W.2d 210, 216 (Iowa App. 1991).

We find the trial court ordered a sentence that was in keeping with the recommendation set forth in the pre-sentencing investigation report, which included the evaluation letter of a sex offender therapist. *See State v. August,* 589 N.W.2d 740, 745-46 (Iowa 1999) (affirming sentence where an extended prison term was ordered on the basis of the inappropriateness of treatment and the need to protect the community).

Accordingly, we affirm.

AFFIRMED.