IN THE COURT OF APPEALS OF IOWA

No. 0-118 / 99-1150
Filed April 12, 2000

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CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

MARLIN FRANCIS HOFFNER,

Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, K.D. Briner (plea) and George L. Stigler (sentencing), Judges.

Defendant appeals from the judgment and sentence entered upon his guilty plea to solicitation of a felony. **AFFIRMED.**

Leslie E. Stokke, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kimberly A. Griffith, Assistant County Attorney, for appellee.

Considered by Streit, P.J., and Zimmer and Hecht, JJ.

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STREIT, P.J.

After pleading guilty to solicitation to commit a felony, Marlin Hoffner was sentenced to a term of imprisonment not to exceed five years. He claims the district court abused its discretion in imposing such a heavy-handed sentence, failed to state adequate reasons for such a sentence, and improperly considered extraneous matters in reaching the sentence. We affirm his sentence, finding no merit to his claims.

I. Background Facts & Proceedings.

The defendant, Marlin Hoffner, was charged with solicitation to commit a felony, in violation of Iowa Code section 705.1 (1997), and conspiracy to possess a controlled substance, in violation of section 124.401(1)(c), after attempting to purchase a substance he believed to be cocaine. The sale, however, was a sting operation involving a federal criminal defendant who was aiding law enforcement.

Pursuant to a plea agreement, Hoffner pleaded guilty to the solicitation charge in exchange for the State dismissing the conspiracy charge. The presentence investigation (PSI) report recommended a suspended sentence, but the State sought incarceration. At the sentencing hearing the State argued Hoffner was a large customer of the federal criminal defendant and routinely sold cocaine salts. Hoffner denied such allegations, characterizing the events as a foolish act of desperation. The court, however, rejected both the recommendation of the PSI and the pleas of Hoffner by sentencing him to an indeterminate, five-year term of imprisonment and ordering him pay a $5000 fine.

Hoffner appeals, claiming the court abused its discretion in sentencing, failed to state adequate reasons for the sentence, and considered improper matters.

II. Standard of Review.

We review the court's sentencing decision for an abuse of discretion. *State v. Laffey*, 600 N.W.2d 57, 62 (Iowa 1999). "Sentencing decisions of the trial court are cloaked with a strong presumption in their favor, and an abuse of discretion will not be found unless the defendant shows that such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable." *State v. Loyd*, 530 N.W.2d 708, 713 (Iowa 1995).

III. The Severity of the Sentence.

Hoffner first claims the trial court abused its discretion in handing down such a heavy-handed sentence. In determining a proper sentence, a court

> should weigh and consider all pertinent matters, including the nature of the offense, the attending circumstances, defendant's age, character and propensities and chances of his reform. The courts owe a duty to the public as much as to defendant in determining a proper sentence. The punishment should fit both the crime and the individual.

State v. Cupples, 152 N.W.2d 277, 280 (Iowa 1967) (citation omitted). Given the attendant circumstances surrounding Hoffner's criminal offense, we cannot conclude the trial court abused its discretion in its choice of sentence. Hoffner attempted to buy $5000 worth of cocaine with the intent to repackage it and sell it at a profit. Illicit drug trafficking continues to be a legitimate community safety concern. Hoffner's rather noneventful criminal record, steady employment, and surrounding familial responsibilities do cut in favor of leniency, but his head-long

dive into the seamy world of drug trafficking cannot be ignored. The nature of the offense and his considerable threat to the community countermand even the most noteworthy of attributes. The trial court's sentence was proper.

IV. Adequate Reasons for the Sentence.

Hoffner next claims the trial court failed to state adequate reasons for the imposition of its sentence. In sentencing a defendant, the trial court must state openly its reason for selecting a particular punishment. Iowa R. Crim. P. 22(3)(d). The explanation, however, need not contain belabored detail. *State v. Oliver*, 588 N.W.2d 412, 414 (Iowa 1998). Rather, it needs only to contain such cursory detail as to allow appellate review of the decision. *Id.*

The trial court's imposition of the five-year sentence was supported on the record by ample explanation. The court identified the serious nature of the crime, and its attendant effect on the community as a whole. He found Hoffner's criminal behavior threatened the lives of those addicts who were to purchase his drugs as well the impetus for a likely increase in property crime so those addicts could feed their habit. The trial court came short of characterizing Hoffner as a drug kingpin, but did find his criminal activity was substantial enough to pose a significant threat to the community. Such explanation plainly intonates the court's rationale in sending Hoffner to prison. The sentence was in clear conformance with the prescriptions of Iowa Rule of Criminal Procedure 22(3)(d).

V. The Consideration of Improper Matters.

Hoffner finally claims the trial court, in determining his sentence, considered improper matters. In reviewing the above-mentioned factors a trial court should consider in determining an appropriate sentence, we find no evidence of any improper factors creeping into the court's decision-making process. The court properly assessed Hoffner's role in the crime. It found Hoffner to be neither a drug kingpin nor a common street pusher. It evaluated the amount of drugs and money involved in the transaction, as well as Hoffner's insignificant criminal history, and fairly concluded Hoffner fell somewhere in the middle of the drug trafficking hierarchy. Such a conclusion was supported by the evidence and completely proper. The sentence is affirmed.

AFFIRMED.

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