FILED
FEB 26 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed February 26, 1986
vs.	)	
JAMES MELVIN LOMAS,	)	5-668 85-763
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Scott County (No. 117418-01) - James E. Kelley, Judge.

Defendant appeals his sentencing following conviction and judgment on five counts of delivery of a schedule I controlled substance in violation of Iowa Code section 204.401(1)(a), asserting that the trial court erred in not stating reasons for his sentence. **AFFIRMED.**

Charles L. Harrington, Appellate Defender, and John P. Messina, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Christie J. Scase, Assistant Attorney General; and Gary Sissel, Assistant County Attorney, for plaintiff-appellee.

Considered by Donielson, P.J., and Snell and Schlegel, JJ.

PER CURIAM

This case is an appeal from sentencing provisions only. Defendant James Melvin Lomas was convicted of five separate counts of delivery of a schedule I controlled substance (heroin) in violation of Iowa Code section 204.401(1)(a) 1985). At sentencing, operating under the erroneous assumption that the offenses charged were class D felonies, the trial court originally sentenced defendant to serve five five-year terms, the first three being consecutive and the second two concurrent to the first three. The reasons for this sentence were stated for the record as follows:

> The reasons of the sentence are the nature of the crime here and the fact that defendant had a good idea of what he was doing and the risks he was taking. The risks are high. The fine imposed in the matter is $10,000. This is a message to anybody else who wants to deal in heroin in this town that the price has gone up.

Immediately after this pronouncement, the court realized that the offenses were class C felonies. It then revised Lomas' sentence to two ten-year terms to run consecutively and three ten-year terms to run concurrently with the first two terms. The court stated that the reasons for the sentence were the same as "previously stated by the court in the record."

On appeal, Lomas asserts that the trial court erred in not stating additional reasons for increasing his sentence from fifteen to twenty years. He, therefore, requests that his sentence be vacated and his cause remanded for resentencing.

Iowa R. Crim. P. 22(3)(d) provides that "[t]he court shall state on the record its reason for selecting the particular sentence." (emphasis added). This rule is mandatory. State v. Luedtke, 279 N.W.2d 7, 8 (Iowa 1979). The Iowa Supreme Court in State v. Matlock, 304 N.W.2d 226 (Iowa 1981), discussed the purpose of this requirement as follows:

> The main purpose of the requirement in rule 22(3)(d) that a court state its reason for a particular sentence

> is to allow [this court] to review the sentence to determine if there has been an abuse of discretion. Other practical considerations in requiring a statement of reasons are as follows: a good sentence is one which can reasonably be explained; knowing why the court imposed a particular sentence is of value to corrections authorities; and the explanation has a possible therapeutic effect on a defendant, although this latter consideration has been questioned.

Id. at 228.

In the present case, the court noted on the record that it was obligated to revise the sentence because Lomas was found guilty of class C felonies rather than class D felonies. The court then incorporated by reference the reasons for the sentence it had previously stated. These reasons included the serious nature of the offense and Lomas' awareness of the high risks he was taking in violating the law.

We conclude that the record demonstrates adequate reasons for the sentence finally imposed by the trial court.

AFFIRMED.

Donielson, P.J., and Snell, J., concur; Schlegel, J., dissents.

SCHLEGEL, J. (dissenting)

I respectfully dissent.

In this case, the trial court effectively increased the sentence of the defendant by five years, without giving any reason for the increase. Obviously, the court felt that consecutive sentences amounting to a total of fifteen years were sufficient, when combined with a fine of $10,000, to satisfy the "price" of dealing in heroin "in this town." We are not given even a hint as to what caused the court to believe the sentence should be five years longer. The same reasons "previously stated by the court in the record" were intended to support only three consecutive sentences of five years.

I would remand for resentencing.