

IN THE SUPREME COURT OF IOWA

No. 22-1507

Washington County No. SRIN012420

STATE OF IOWA,
Plaintiff- Appellee,

vs.

JACOB LEE GOBLE
Respondent - Appellee,

APPELLANT'S FINAL BRIEF

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TABLE OF AUTHORITIES

State v. Ondayog, 722 N.W.2d 778 (Iowa 2006)

State v. Formaro, 638 N.W.2d 720 (Iowa 2002)

State v. Damme, 944 N.W.2d 98 (Iowa 2020)

State v. Thompson, 951 N.W.2d 1 (Iowa 2020)

State v. Boldon, 954 N.W.2d 62, 73 (Iowa 2021). *State v. Bowen*, No. 22-0278, 2022 WL 16985663, at *3 (Iowa Ct. App. Nov. 17, 2022) (Unpublished decision)

STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I

DID THE COURT COMMIT REVERSIBLE ERROR WHEN IT IMPOSED SENTENCE?

ROUTING STATEMENT

This case would be appropriate for the Iowa Court of Appeals.

STATEMENT OF THE CASE

The Appellant Jacob Lee Goble (hereinafter Goble) was charged with Possession of Controlled Substance Third Offense. (App. pg. 4) On March 28, 2022, the State of Iowa filed a trial information which formally charged Goble as stated above. On April 26, 2022, Goble entered into a negotiated plea of guilty which did not include a joint sentencing recommendation. At sentencing, the parties argued their respective positions where the State requested an imposed sentence and Goble requested a suspended sentence. The Court imposed and did not suspend the sentence. (Trans pp 3-6) Goble timely filed a notice of appeal. (Notice)

STATEMENT OF THE FACTS

Goble appeals the sentence which the Court imposed on him. Goble argues the Court abused its discretion in imposing this sentence. Goble pleaded with the Court to place him on probation (Trans. pp 5-6) The Court chose to place Goble in prison as opposed to some lesser restrictive placement or treatment program in spite of Goble's commitment to treatment. The Court considered the duration of time Goble would spend in prison prior to parole based on its comments found at the time sentence was imposed. (Trans. pg. 8)

“It’s a five-year sentence and it’s a drug charge, so you’re not going to do a lot of time, but you will be paroled at some point and you’re going to have to make a decision at that point...”

ARGUMENT

I

DID THE COURT COMMIT REVERSIBLE ERROR WHEN IT IMPOSED SENTENCE?

Error Preservation: Goble did not preserve error in this matter but asserts that his failure to preserve this error should be excused as he received ineffective assistance of counsel in failure to preserve error. Ineffective-assistance-of-counsel claims are not bound by traditional error-preservation rules.” *State v. Ondayog*, 722 N.W.2d 778, 784 (Iowa 2006)

Standard of Review: Our review of a sentence imposed in a criminal case is for correction of errors at law.” *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). We will not reverse a sentence unless there is “an abuse of discretion or some defect in the sentencing procedure.”

The Court has jurisdiction in this matter as Goble has good cause to appeal the sentence only. In the alternative Goble does not need to show good cause to appeal his sentence.

We have jurisdiction to hear this appeal following a guilty plea because Bowen has demonstrated good cause by challenging his sentence, not the plea itself. See *State v. Damme*, 944 N.W.2d 98, 105 (Iowa 2020); see also *State v. Thompson*, 951 N.W.2d 1, 5 (Iowa 2020) (holding a defendant has good cause to appeal an order revoking a deferred judgment and entering a judgment of conviction and sentence when the challenge is not to the underlying plea). *State v. Bowen*, No. 22-0278, 2022 WL 16985663, at *1 (Iowa Ct. App. Nov. 17, 2022)

The requirement for good cause does not exist for an appeal of an imposed sentence only. “A sentencing error invariably arises after the court has accepted the guilty plea. This timing provides a legally sufficient reason to appeal notwithstanding the guilty plea.” *State v. Damme*, 944 N.W.2d 98, 105 (Iowa 2020). In *Damme*, the sentence was neither agreed upon, nor was it mandatory. The Court’s sentence in *Goble* was likewise not agreed upon nor was it mandatory.

Goble argues that the Court must reverse and remand for a new sentencing hearing. The statement about how long *Goble* would spend in custody may have played a small role in the Court’s decision, but it appears to have played a role.

There is a presumption in favor of the sentence imposed, and a defendant must overcome that presumption by affirmatively demonstrating that the district court relied on an improper factor. *Damme*, 944 N.W.2d at 106. However, if the defendant demonstrates that the district court considered an improper factor, resentencing is required even if the improper factor was merely a secondary consideration. *State v. Boldon*, 954 N.W.2d 62, 73 (Iowa 2021). *State v. Bowen*, No. 22-0278, 2022 WL 16985663, at *3 (Iowa Ct. App. Nov. 17, 2022)

CONCLUSION

For the reasons stated above Goble respectfully requests the Court enter an order reversing the sentence and remanding for a new sentencing hearing. Goble requests such other relief as the Court deems to be appropriate.

REQUEST FOR ORAL ARGUMENT

Goble respectfully requests to be heard in oral argument.

Respectfully Submitted,

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COSTS CERTIFICATE

As the brief was prepared electronically and filed electronically, the Appellant is aware of no costs which would properly be includible in a cost certificate.

Certificate of Compliance with Type-Volume Limitations, Typeface Requirements and Type-Style Requirements

1. This brief complies with the type-volume limitation of Iowa R. App. P.

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CERTIFICATE OF SERVICE

I hereby certify that have served a copy of this brief on the Appellant Jacob Goble at his last known address, with sufficient postage affixed.

Christopher A. Clausen
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