

IN THE SUPREME COURT OF IOWA
Supreme Court No. 22-1507
Washington County No. SRIN012420

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JACOB LEE GOBLE,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR WASHINGTON COUNTY
THE HONORABLE SHAWN SHOWERS, JUDGE

APPELLEE'S BRIEF

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Whether the court's reference to parole revealed the consideration of an improper factor.

Authorities

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State v. Bentley, 757 N.W.2d 257 (Iowa 2008)
State v. Boltz, 542 N.W.2d 9 (Iowa Ct. App. 1995)
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State v. Dvorsky, 322 N.W.2d 62 (Iowa 1982)
State v. Formaro, 638 N.W.2d 720 (Iowa 2002)
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Iowa Code §§ 901.5(9)(a)–(b)
Iowa Code § 907.3(3)
Iowa Code § 907.5(1)
Iowa R. Crim. P. 2.23(3)(d)

ROUTING STATEMENT

The Court should transfer this matter to the Court of Appeals.
Iowa R. App. P. 6.1101(3)(a).

STATEMENT OF THE CASE

Nature of the Case

After pleading guilty to possession of a controlled substance (methamphetamine), third or subsequent offense, in violation of Iowa Code section 124.401(5), Jacob Lee Goble was sentenced to incarceration not to exceed five years. Sent. Order, Dkt. No. 39; App. 10–16. He appeals arguing the court improperly considered his parole eligibility when imposing sentence. The State disagrees.

Course of Proceedings

The State accepts the defendant's description of the proceedings as adequate. Iowa R. App. P. 6.903(3).

Facts

In his written plea of guilty, Goble admitted on December 30, 2021, he intentionally and knowingly possessed methamphetamine, and that it was his third or subsequent possession offense. Written Plea, Dkt. No. 15 at 3; App. 8.

ARGUMENT

I. **Goble has Failed to Affirmatively Show the Sentencing Court Considered an Improper Factor.**

Jurisdiction

Because Goble pleaded guilty, he has no right of appeal unless there is good cause, meaning a legally sufficient reason. Iowa Code § 814.6(1)(a)(3); *see State v. Damme*, 944 N.W.2d 98, 109 (Iowa 2020). That said, Goble’s argument on appeal challenges his sentence, not his guilty plea. *See* Appellant’s Br. at 5–6. “[G]ood cause exists to appeal from a conviction following a guilty plea when the defendant challenges his or her sentence rather than the guilty plea.” *Damme*, 944 N.W.2d at 105. The State does not dispute Goble has good cause to appeal his sentence.

Preservation of Error

The State does not contest error preservation. The normal rules of error preservation do not apply to a direct appeal of a sentence. *See State v. Cooley*, 587 N.W.2d 752, 754 (Iowa 1998).

Standard of Review

“A sentence will not be upset on appellate review unless the defendant demonstrates an abuse of trial court discretion or a defect in the sentencing procedure such as the trial court’s consideration of

impermissible factors.” *State v. Witham*, 583 N.W.2d 677, 678 (Iowa 1998) (citing *State v. Wright*, 340 N.W.2d 590, 592 (Iowa 1983)). The defendant must overcome the presumption of regularity when challenging a court’s sentence. *See State v. Pappas*, 337 N.W.2d 490, 494 (Iowa 1983). “Sentencing decisions of the district court are cloaked with a strong presumption in their favor.” *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996) (citing *State v. Loyd*, 530 N.W.2d 708, 713 (Iowa 1995)).

Merits

Goble argues the district court considered an improper factor when imposing sentence. The State disagrees.

Sentencing decisions are cloaked in a strong presumption in their favor, abuse of discretion will be found only when the sentencing court’s discretion relied on grounds clearly untenable or to an extent clearly unreasonable. *See Loyd*, 530 N.W.2d at 713 (citing *State v. Johnson*, 513 N.W.2d 717, 719 (Iowa 1994)). “The use of an impermissible sentencing factor is viewed as an abuse of discretion and requires resentencing.” *State v. Thomas*, 520 N.W.2d 311, 313 (Iowa 1994). It is the defendant’s duty to overcome the presumption

of regularity when challenging a sentencing decision. *See Pappas*, 337 N.W.2d at 494.

Before suspending a sentence, a sentencing court must consider the defendant's age, prior record of convictions, employment circumstances, family circumstances, mental health and substance abuse history, the nature of the offense, and "[s]uch other factors as are appropriate." *See Iowa Code* § 907.5(1). When imposing sentence, the court must also determine which sentencing option "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." *See id.* § 901.5.

Section 901.5 of the Iowa Code provides that "[a]fter receiving and examining all pertinent information," the court must consider among a number of sentencing options, including a term of confinement or a suspended sentence of probation. *Iowa Code* § 901.5; *see State v. Thomas*, 659 N.W.2d 217, 221 (Iowa 2003) (citing *Iowa Code* § 907.3(3)) ("Following a plea or verdict of guilt, a court may, subject to exceptions, defer judgment, defer sentence, or suspend sentence."). The sentencing court determines which of the statutory options "is authorized by law for the offense," and "which 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 (emphasis added). Besides considering “the societal goal of sentencing criminal offenders,” the court must also consider “the nature of the offense, the attending circumstances, the age, character and propensity of the offender, and the chances of reform.” *State v. Formaro*, 638 N.W.2d 720, 724-25 (Iowa 2002) (citing *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999)).

These sentencing determinations must be made on the record, and the court cannot base the sentencing decision only on a single sentencing factor. *See State v. Dvorsky*, 322 N.W.2d 62, 67 (Iowa 1982) (citing *State v. Hildebrand*, 280 N.W.2d 393, 396 (Iowa 1979)); *see also* Iowa R. Crim. P. 2.23(3)(d). While courts must state on the record the reasons relied on for imposing a particular sentence, “[g]enerally, a sentencing court is not required to give its reasons for rejecting particular sentencing options.” *Loyd*, 530 N.W.2d at 713–14. Further, just because a court does not cite a particular factor does not mean the court did not consider it. *State v. Boltz*, 542 N.W.2d 9, 11

(Iowa Ct. App. 1995) (“[T]he failure to acknowledge a particular sentencing circumstance does not necessarily mean it was not considered.”).

Goble contends the district court improperly considered the timing of parole as a factor when imposing sentence. Appellant’s Br. at 6. It is true a sentencing court should not craft a sentence intended to thwart the parole board’s authority because this would “impermissibly invade the prerogative of the parole board.” *State v. Bentley*, 757 N.W.2d 257, 266 (Iowa 2008). That said, the record shows the court’s comment was not intended to thwart the workings of the parole process, but was intended to explain the “possible effects of parole practices on the time [Goble] will actually serve.” *State v. Jason*, No. 14-1162, 2015 WL 6510334, at *12 (Iowa Ct. App. Oct. 28, 2015) (citing *State v. Vanover*, 559 N.W.2d 618, 635 (Iowa 1997)); accord *State v. Wilson*, No. 10-1324, 2011 WL 2419918, at *4 (Iowa Ct. App. June 15, 2011).

After explaining the many factors the court had considered, the court noted that although Goble was receiving a five-year sentence, he would “be paroled at some point” and he would need to make a decision at that time to turn his life around. Sent. Tr. 8:7–25. This

does not reveal the court improperly considered his parole eligibility as a factor in an attempt to keep him in prison longer. Instead, the court was trying to encourage Goble down the path of rehabilitation.

The court's comment can also be viewed as explaining to Goble how the parole process would likely result in an earlier release. This is not improper. "In fact, Iowa's truth-in-sentencing provisions require the court to publicly announce that the defendant's term of incarceration may be reduced by earned time and that the defendant may be eligible for parole before the sentence is discharged." *Jason*, 2015 WL 6510334, at *12 (citing Iowa Code §§ 901.5(9)(a)–(b)); *State v. Clark*, No. 11-0240, 2011 WL 3480967, at *6 (Iowa Ct. App. Aug. 10, 2011).

The record shows the court considered many valid reasons for imposing a sentence of incarceration. *See* Sent. Tr. 6:22–8:25. Goble has failed to affirmatively show the court considered an improper factor. This Court should affirm.

CONCLUSION

This Court should affirm Jacob Lee Goble's conviction and sentence.

REQUEST FOR NONORAL SUBMISSION

Oral submission is unnecessary.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **1,293** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

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