

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,

Plaintiff-Appellee,

v.

ISAIAH CECIL HAKEEM
DUFFIELD,

Defendant-Appellant.

SUPREME CT. NO. 23-0786

APPEAL FROM THE IOWA DISTRICT COURT
FOR FAYETTE COUNTY
HONORABLE RICHARD D. STOCHL, JUDGE

APPELLANT'S BRIEF AND ARGUMENT

MARTHA J. LUCEY
State Appellate Defender

THERESA R. WILSON
Assistant Appellate Defender
twilson@spd.state.ia.us
appellatedefender@spd.state.ia.us

STATE APPELLATE DEFENDER'S OFFICE
6200 Park Ave.
Des Moines, Iowa 50321
(515) 281-8841 / (515) 281-7281 FAX
ATTORNEYS FOR DEFENDANT-APPELLANT

FINAL

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

Jurisdictional Statement:

Iowa Code § 814.6(1)(a)(3) (2023)

State v. Newman, 970 N.W.2d 866, 869 (Iowa 2022)

State v. Damme, 944 N.W.2d 98, 105 (Iowa 2020)

ARGUMENT

I. The District Court abused its discretion in failing to give reasons for imposing consecutive sentences.

Authorities

State v. Thomas, 520 N.W.2d 311, 313 (Iowa Ct. App. 1994)

State v. Thompson, 856 N.W.2d 915, 920-921 (Iowa 2014)

State v. Barnes, 791 N.W.2d 817, 827 (Iowa 2010)

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State v. Loyd, 530 N.W.2d 708, 713 (Iowa 1995)

State v. Johnson, 513 N.W.2d 717, 719 (Iowa 1994)

State v. August, 589 N.W.2d 740, 744 (Iowa 1999)

State v. Fink, 320 N.W.2d 632, 634 (Iowa Ct. App. 1982)

Iowa R. Crim. P. 2.23(3)(d) (2023)

State v. Hill, 878 N.W.2d 269, 273 (Iowa 2016)

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State v. Hennings, 791 N.W.2d 828, 838–39 (Iowa 2010)

State v. Johnson, 445 N.W.2d 337, 343–44 (Iowa 1989)

State v. Carberry, 501 N.W.2d 473, 477-78 (Iowa 1993)

Iowa Code 903.1(1)(2) (2021)

State v. Jacobs, 607 N.W.2d 679, 690 (Iowa 2000)

II. The District Court abused its discretion in imposing but suspending a \$1,025 fine for the lesser offense of Sex Offender Registry Violation, First Offense. The court appears to have imposed the minimum fine applicable to a Class D felony.

Authorities

State v. Ayers, 590 N.W.2d 25, 27 (Iowa 1999)

State v. Thompson, 856 N.W.2d 915, 920-921 (Iowa 2014)

State v. Iowa Dist. Ct., 620 N.W.2d 271, 272-73 (Iowa 2000)

Iowa Code § 903.1(1)(2) (2021)

Iowa Code § 902.9(1)(e) (2021)

ROUTING STATEMENT

This case should be transferred to the Court of Appeals because the issues raised involve applying existing legal principles. Iowa R. App. P. 6.903(2)(d) and 6.1101(3)(a).

STATEMENT OF THE CASE

Nature of the Case: Defendant-Appellant Isaiah Duffield appeals from his sentence for Sex Offender Registry Violation, an aggravated misdemeanor in violation of Iowa Code sections 692A.104 and 692A.111 (2021), following his guilty plea in Scott County District Court. Duffield contends the District Court abused its discretion in sentencing him to consecutive sentences without providing adequate reasons, and imposing the minimum fine for a class D felony rather than the minimum fine for an aggravated misdemeanor.

Course of Proceedings: On April 27, 2022, the State filed a trial information charging Duffield with Sexual Abuse in the Third Degree, Second or Subsequent Offense, a class A felony in violation of Iowa Code sections 709.4(1) (a) and (b),

709.1 and 902.14(1)(b) (2021) (Count I), and Sex Offender Registry Violation, First Offense Enhanced, a class C felony in violation of Iowa Code sections §692A.101(23a)(15), 692A.104 and 692A.111 (2021) (Count II). (4/27/22 Trial Information)(App. pp. 4-7). Duffield initially pleaded not guilty and waived his right to a speedy trial. (5/5/22 Written Arraignment)(App. p. 8).

On January 19, 2023, the District Court granted the State's motion to join the charges in this case with another charge of sexual abuse in a separate trial information not the subject of this appeal. (1/19/23 Ruling on Motion for Joinder)(App. pp. 9-11). At the same time, the District Court severed the sex offender registry violation charge from the sexual abuse charges. (1/19/23 Ruling on Motion for Joinder p. 2)(App. p. 10). The State filed an amended trial information on February 15, 2023, charging only the registry violation. (2/15/23 Amended Trial Information)(App. pp. 12-14).

On May 1, 2023, Duffield filed a written guilty plea to the lesser included offense of Sex Offender Registry Violation, an aggravated misdemeanor in violation of Iowa Code sections 692A.101(23)(a)(15), 692A.104, and 692A.111(1) (2021). (5/1/23 Written Guilty Plea ¶¶ 5-6)(App. p. 16). The plea agreement allowed each party to argue for any available sentence. (5/1/23 Written Guilty Plea ¶ 9)(App. pp. 16-17).

The District Court held a sentencing hearing on May 10, 2023. (5/10/23 Judgment and Sentence p. 1)(App. p. 24). Formal reporting was waived by the parties. (5/10/23 Judgment and Sentence p. 3)(App. p. 26). The court sentenced Duffield to two years in prison and a suspended \$1,025 fine, with the sentence to run consecutively to another case not the subject of this appeal. (5/10/23 Judgment and Sentence pp. 1-2)(App. pp. 24-25). The court determined Duffield had no reasonable ability to pay Category B restitution. (5/10/23 Judgment and Sentence p. 2)(App. p. 25).

Duffield filed a timely notice of appeal on May 12, 2023. (5/12/23 Notice of Appeal)(App. pp. 29-30).

Facts: In his written guilty plea, Duffield admitted that on April 10, 2022, in Fayette County, Iowa, he failed to appear in person to notify the Fayette County sheriff within 5 days of a change of residence. (5/1/23 Written Guilty Plea ¶¶ 5-7)(App. p. 16). Duffield agreed the District Court could rely on the minutes of testimony to find a factual basis. (5/1/23 Written Guilty Plea ¶ 7)(App. p. 16).

According to the minutes of testimony, on July 29, 2020, Duffield was adjudicated for Sexual Abuse in the 3rd Degree in a Winneshiek County Iowa juvenile court matter. (4/27/22 Minutes p. 2)(Conf. App. p. 5). Due to the adjudication, Duffield was required to register with the Iowa Sex Offender Registry and to comply with its reporting requirements. (4/27/22 Minutes p. 2)(Conf. App. p. 5).

The minutes stated that on April 18, 2022, Winneshiek County officers attempted to contact Duffield at his registry

address. (4/27/22 Minutes p. 5)(Conf. App. p. 8). Duffield's half-brother informed officers that Duffield had never lived there and only used it as a mailing address. (4/27/22 Minutes p. 5)(Conf. App. p. 8). Duffield had registered the address on February 19, 2022, and had not provided another address. (4/27/22 Minutes pp. 5, 15-16)(Conf. App. pp. 8, 10-11). Duffield appeared at the police station on April 18, 2022, and admitted to the registry violation but said he had a job and would soon be getting a place to live. (4/27/22 Minutes p. 5)(Conf. App. p. 8).

JURISDICTIONAL STATEMENT REGARDING IOWA CODE SECTIONS 814.6(1)(A)(3) AND 814.7

Iowa Code section 814.6(1)(a)(3) provides a statutory right of appeal for a defendant in a criminal case except when the case involves a guilty plea. Iowa Code § 814.6(1)(a)(3) (2023). The statute provides two exceptions to the prohibition: Guilty pleas to class A felonies and guilty pleas in which there is “good cause” to appeal. Id. The statute itself does not define “good cause,” but the Iowa Supreme Court has chosen to

define the phrase broadly as “a legally sufficient reason.”

State v. Newman, 970 N.W.2d 866, 869 (Iowa 2022).

“Generally speaking, a defendant asserts a legally sufficient reason and establishes good cause to appeal as a matter of right by asserting a claim on appeal for which an appellate court potentially could provide relief.” Id.

The Iowa Supreme Court has found a defendant establishes “good cause” for an appeal under Iowa Code section 814.6(1)(a)(3) “when the defendant challenges his or her sentence rather than the guilty plea.” State v. Damme, 944 N.W.2d 98, 105 (Iowa 2020). This is because no error preservation is required to assert a sentencing claim on appeal. State v. Newman, 970 N.W.2d 866, 869 (Iowa 2022).

As such, Duffield has good cause for this appeal, which challenges the District Court’s imposition of a \$1,025 suspended fine and consecutive sentences.

ARGUMENT

I. The District Court abused its discretion in failing to give reasons for imposing consecutive sentences.

Preservation of Error: The general rule of error preservation is not applicable to procedurally defective sentences. State v. Thomas, 520 N.W.2d 311, 313 (Iowa Ct. App. 1994). Furthermore, a defendant's decision to waive reporting of sentencing does not waive for appeal an argument that the court failed to provide reasons for its sentence. State v. Thompson, 856 N.W.2d 915, 920-921 (Iowa 2014).

Scope of Review: District court sentences are reviewed for an abuse of discretion. State v. Barnes, 791 N.W.2d 817, 827 (Iowa 2010). A district court abuses its discretion when it exercises its discretion on grounds clearly untenable or to an extent clearly unreasonable. Id. "When a sentence is not mandatory, the district court must exercise its discretion in determining what sentence to impose." State v. Thomas, 547 N.W.2d 223, 225 (Iowa 1996).

Merits: The District Court abused its discretion in imposing an indeterminate term of imprisonment not to exceed two years consecutive to another sentence not the subject of this appeal. The court failed to give any reasons for running the sentences consecutive to each other. Duffield asks that his sentence be vacated and his case remanded to the District Court for resentencing.

Duffield was initially charged with Sexual Abuse in the Third Degree, Second or Subsequent Offense, a class A felony in violation of Iowa Code sections 709.4(1) (a) and (b), 709.1 and 902.14(1)(b) (2021) (Count I) and Sex Offender Registry Violation, First Offense Enhanced, a class C felony in violation of Iowa Code sections §692A.101 (23a) (15), 692A.104 and 692A.111 (2021) (Count II). (4/27/22 Trial Information)(App. pp. 4-7). Duffield ultimately agreed to plead guilty to Sex Offender Registry Violation, an aggravated misdemeanor in violation of Iowa Code sections 692A.101(23)(a)(15), 692A.104, and 692A.111(1) (2021), as a lesser-included offense under

Count II. (5/1/23 Written Guilty Plea ¶¶ 5-6)(App. p. 16).

The plea agreement allowed each party to argue for any available sentence. (5/1/23 Written Guilty Plea ¶ 9)(App. pp. 16-17).

The District Court held a sentencing hearing on May 10, 2023. (5/10/23 Judgment and Sentence p. 1)(App. p. 24). Formal reporting was waived by the parties. (5/10/23 Judgment and Sentence p. 3)(App. pp. 26). The court sentenced Duffield to two years in prison and a suspended \$1,025 fine, with the sentence to run consecutively to another case not the subject of this appeal. (5/10/23 Judgment and Sentence pp. 1-2)(App. pp. 24-25).

Because there was no formal reporting of the proceedings, the only insight into the District Court's reasoning for its sentence comes from its judgment entry. The entry listed the reasons for the sentence as "nature of offense, plea agreement, prior record." (5/10/23 Judgment and Sentence p. 3)(App. p. 26). The court did not specifically

list reasons for imposing consecutive sentences.

“When a sentence is not mandatory, the district court must exercise its discretion in determining what sentence to impose.” State v. Thomas, 547 N.W.2d 223, 225 (Iowa 1996). In considering sentencing options the court is to determine which of the authorized sentences will provide the 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 (2017); State v. Hildebrand, 280 N.W.2d 393, 395 (Iowa 1979).

“[T]he district court is to weigh all pertinent matters in determining a proper sentence including the nature of the offense, the attending circumstances, the defendant’s age, character, and propensities or chances of reform.” State v. Loyd, 530 N.W.2d 708, 713 (Iowa 1995) (quoting State v. Johnson, 513 N.W.2d 717, 719 (Iowa 1994)). The courts owe a duty to both the defendant and the public. State v. August, 589 N.W.2d 740, 744 (Iowa 1999). The court must exercise

the sentencing option that would “best accomplish justice for both society and the individual defendant” after considering all pertinent sentencing factors. State v. Fink, 320 N.W.2d 632, 634 (Iowa Ct. App. 1982). The punishment should fit both the crime and the individual. State v. August, 589 N.W.2d at 744.

A trial court has a duty under Iowa Rule of Criminal Procedure 2.23(3)(d) to specifically state its reasons for selecting a particular sentence. Iowa R. Crim. P. 2.23(3)(d) (2023); State v. Hill, 878 N.W.2d 269, 273 (Iowa 2016); State v. Delaney, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994). Because a trial court often has discretion to impose concurrent or consecutive sentences for separate counts, the court must also provide an explanation for imposing consecutive sentences so the defendant understands the reason for his or her sentence and so that the appellate courts may properly review it. State v. Hill, 878 N.W.2d 269, 273 (Iowa 2016); State v. Delaney, 526 N.W.2d at 178; Iowa Code § 901.5(9)(c) (2021).

Previously, the Iowa Supreme Court had allowed an inference that the reasons given for the sentence generally also justified the imposition of consecutive sentences. See State v. Hennings, 791 N.W.2d 828, 838–39 (Iowa 2010); State v. Johnson, 445 N.W.2d 337, 343–44 (Iowa 1989). The Iowa Supreme Court overruled Hennings and Johnson in State v. Hill. State v. Hill, 878 N.W.2d 269, 275 (Iowa 2016).

The District Court failed to give even a terse explanation of why it imposed consecutive sentences in this matter. State v. Carberry, 501 N.W.2d 473, 477-78 (Iowa 1993). While the court gave an explanation for its sentence generally, it did not provide any explanation as to why it deemed consecutive sentences appropriate in particular. This was not a case in which the only real sentencing option under consideration was whether to run the sentences concurrently or consecutively. The court also had to consider the availability of probation as well as the best sentence within the range provided for by the Iowa Code. See Iowa Code 903.1(1)(2) (2021) (providing range

of fines for aggravated misdemeanors, as well as either a determinate or indeterminate sentence).

The record in this case simply does not disclose the District Court's reasoning for consecutive sentences such that this Court is able to give the sentence the appropriate appellate review. See State v. Delaney, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994). Therefore, Duffield respectfully requests this Court vacate his sentence and remand his case for resentencing. See State v. Jacobs, 607 N.W.2d 679, 690 (Iowa 2000).

II. The District Court abused its discretion in imposing but suspending a \$1,025 fine for the lesser offense of Sex Offender Registry Violation, First Offense. The court appears to have imposed the minimum fine applicable to a Class D felony.

Preservation of Error: A district court's failure to exercise its discretion is a defective sentencing procedure to which the rules of error preservation do not apply. State v. Ayers, 590 N.W.2d 25, 27 (Iowa 1999). Furthermore, a defendant's decision to waive reporting of sentencing does not

waive for appeal an argument that the court failed to provide reasons for its sentence. State v. Thompson, 856 N.W.2d 915, 920-921 (Iowa 2014).

Standard of Review: When a sentencing court has discretion, it must exercise that discretion and failure to do so calls for vacating the sentence and remanding for resentencing. State v. Ayers, 590 N.W.2d 25, 27 (Iowa 1999). To the extent the District Court made an error of law in imposing its sentence, review is for correction of errors at law. State v. Iowa Dist. Ct., 620 N.W.2d 271, 272-73 (Iowa 2000).

Merits: The District Court abused its discretion in imposing but suspending a \$1,025 fine for Sex Offender Registry Violation, First Offense. It appears the District Court imposed the minimum fine for a class D felony, rather than the aggravated misdemeanor to which he ultimately pleaded. Duffield asks that his fine be vacated and his case remanded to the District Court for resentencing.

Under Count II of the original trial information, Duffield was charged with Sex Offender Registry Violation, First Offense Enhanced, a class C felony in violation of Iowa Code sections §692A.101 (23a) (15), 692A.104 and 692A.111 (2021) (Count II). (4/27/22 Trial Information)(App. pp. 4-7).

Duffield ultimately pleaded guilty to the lesser offense of Sex Offender Registry Violation, an aggravated misdemeanor in violation of Iowa Code sections 692A.101(23)(a)(15), 692A.104, and 692A.111(1) (2021). (5/1/23 Written Guilty Plea ¶¶ 5-6)(App. p. 16).

The plea agreement allowed each party to argue for any available sentence. (5/1/23 Written Guilty Plea ¶ 9)(App. pp. 16-17). The written plea acknowledged the fine range for the aggravated misdemeanor was \$855 to \$8,540. (5/1/23 Written Plea ¶ 11). See Iowa Code § 903.1(1)(2) (2021).

The District Court held a sentencing hearing on May 10, 2023. (5/10/23 Judgment and Sentence p. 1)(App. p. 24). Formal reporting was waived by the parties. (5/10/23

Judgment and Sentence p. 3)(App. p. 26). The court sentenced Duffield to two years in prison and a suspended \$1,025 fine. (5/10/23 Judgment and Sentence pp. 1-2)(App. pp. 24-25). Notably, \$1,025 is the statutory amount of the minimum fine for a class D felony. Id. § 902.9(1)(e).

The District Court committed an error of law and abused its discretion when it imposed the \$855 fine on Duffield's registry violation. The District Court was likely under the mistaken belief that the fine it imposed was the minimum fine required by law. In fact, the minimum fine required by statute was less than that imposed by the court.

The District Court had discretion to order a larger fine than the minimum fine permitted for the registry violation, but there is no indication in the record that this was the intent of the District Court. Unfortunately, the District Court did not provide any reasons for the specific fine it imposed. State v. Thompson, 856 N.W.2d 915, 920-921 (Iowa 2014) ("We think the sounder interpretation of rule 2.23(3)(d) requires the judge

to include in his or her sentencing order the reason for the sentence when the defendant waives the reporting of the sentencing hearing.”). Rather, looking at the case as a whole, it appears the District Court was under the mistaken impression that \$1,025 was the minimum fine. Appellate courts will not find an exercise of discretion where a district court was unaware it had discretion. State v. Ayers, 590 N.W.2d 25, 32 (Iowa 1999).

The District Court erred in either believing it had to impose a minimum fine in the amount of \$1,025 for Sex Offender Registry Violation or failing to provide reasons for imposing more than the minimum fine. Duffield is entitled to be resentenced with respect to his fine. Id. at 27.

CONCLUSION

The District Court abused its discretion when it imposed consecutive sentences without providing reasons, and when it imposed the minimum fine for a class D felony to an aggravated misdemeanor without providing sufficient

explanation. Defendant-Appellant Isaiah Duffield respectfully requests this Court vacate his sentence and remand his case to the District Court for resentencing.

REQUEST FOR NONORAL SUBMISSION

Counsel submits oral argument is not necessary for the resolution of the issues raised on appeal, which can be determined from the briefs. If oral argument is granted to the State, however, counsel also requests to be heard in argument.

ATTORNEY'S COST CERTIFICATE

The undersigned, hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$1.52, and that amount has been paid in full by the Office of the Appellate Defender.

**CERTIFICATE OF COMPLIANCE WITH TYPEFACE
REQUIREMENTS AND TYPE-VOLUME LIMITATION FOR
BRIEFS**

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) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 2,782 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

/s/ Theresa R. Wilson

Dated: 12/21/23

THERESA R. WILSON

Assistant Appellate Defender

Appellate Defender Office

6200 Park Ave.

Des Moines, IA 50321

(515) 281-8841

twilson@spd.state.ia.us

appellatedefender@spd.state.ia.us

TRW/sm/12/23