

IN THE COURT OF APPEALS OF IOWA

No. 3-929 / 12-0963
Filed October 23, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ERIC ARNOLD SIMPSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Douglas F. Staskal (plea) and Scott D. Rosenberg (sentencing), Judges.

Eric Simpson appeals the district court's imposition of consecutive sentences following his guilty plea to three counts of lascivious acts with a child.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, John Sarcone, County Attorney, and Celene Gogerty, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

Eric Simpson appeals the district court's imposition of consecutive sentences following his guilty plea to three counts of lascivious acts with a child. Because the district court gave sufficient reasons in imposing the sentences, it did not abuse its discretion and we affirm.

On December 22, 2011, Simpson pleaded guilty to three counts of lascivious acts with a child in violation of Iowa Code section 709.8 (2009). On April 23, 2012, the district court sentenced him to a term of ten years on each count, to be served consecutively. During the sentencing hearing, the court first asserted the sentences were to run consecutively and that probation was denied, then stated:

[Simpson] shall be imprisoned for a period not to exceed ten years on each offense Sentences to run consecutively as to each other for a total term of incarceration not to exceed 30 years The Court finds that based upon a review of the PSI, considering the age of the defendant, the defendant's prior record of conviction, the fact that he's on parole and probation at this time, the Court—the other factors in 907.3 and 907.5, mental health and substance abuse history, employment circumstances, family circumstances, the nature of this offense, the age of the victim, the defendant's need for rehabilitation and potential for rehabilitation, the necessity for protecting the community from further offenses by the defendant and the other factors brought forth in the presentence investigation report, which recommended incarceration, the Court believes that probation is not appropriate in order to prevent the defendant from committing further criminal activity and to protect the public.

We review the imposition of consecutive sentences for abuse of discretion. *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999). An abuse of discretion is found only when the sentencing court exercises its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *Id.* When applying its discretion, the court:

[S]hould weigh and consider all pertinent matters in determining proper sentence, 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.

Id. (internal citations omitted). We further note that “[t]he reasons . . . are not required to be specifically tied to the imposition of consecutive sentences, but may be found from the particular reasons expressed for the overall sentencing plan. Thus, we look to all parts of the record to find the supporting reasons.” *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994).

Here, while the district court did not explicitly tie its reasoning to the imposition of consecutive sentences, it is clear that the consecutive sentences were part of its “overall sentencing plan.” See *State v. Hennings*, 791 N.W.2d 828, 838 (Iowa 2010); *Delaney*, 526 N.W.2d at 178. This conclusion is reinforced by the fact the court first stated the sentences were to run consecutively, that probation was denied, and then went through the factors supporting its decision. Though the summation states “the Court believes that probation is not appropriate,” it is apparent the court is tying its reasoning to the imposition of consecutive sentences as well. Therefore, we find the court adequately set forth the reasons for the sentence as well as the factors it considered, as required by law, and so did not abuse its discretion. Consequently, we affirm the sentence.

AFFIRMED.